



# Staff Report

PLANNING DIVISION  
COMMUNITY & NEIGHBORHOODS

**To:** Salt Lake City Appeals Hearing Officer

**From:** John Anderson – Planning Manager  
(385) 226-6479 or [john.anderson@slcgov.com](mailto:john.anderson@slcgov.com)

**Date:** August 12, 2021 (hearing date)

**Re:** PLNAPP2021-00696 – Appeal of the Planning Commission decision to approve the Harvath Planned Development and Preliminary Plat at approximately 1852 E. 2700 S. (Petitions PLNPCM2020-00826 and PLNSUB2021-00111)

---

## APPEAL OF A DECISION BY THE PLANNING COMMISSION

**Property Address:** 1844 and 1852 E. 2700 S. (approx. address)  
**Parcel IDs:** 16-21-480-004 and 16-21-480-005  
**Zoning District:** R-1/12,000 Single Family Residential  
**Master Plan:** Sugar House Community Master Plan  
**Planning Commission Hearing Date:** June 9, 2021  
**Appellant:** Kevin Donahue

### BACKGROUND AND PROJECT DESCRIPTION:

David and Barbara Harvath, property owners, requested Planned Development and Preliminary Plat approval to subdivide two lots at 1844 E 2700 S and 1852 E 2700 S and create a third lot in the rear portion of 1852 E 2700 S. The newly created lot would facilitate a new single-family residence. The request would result in three lots that do not meet the minimum lot width requirements in the R-1/12,000 Single-Family Residential zoning district but do meet the minimum lot size requirements. The applicants requested a modification of the lot width requirements through the Planned Development process.

On June 9, 2021 the Planning Commission heard and considered the proposal at a public meeting. Following presentations made by staff and the applicant, and after taking public comment on the proposal, the Planning Commission voted unanimously to approve the Planned Development and Preliminary Subdivision subject to certain conditions. The minutes of the Planning Commission meeting are included as Attachment E.

On July 6, 2021 the City received an application from Kevin Donahue (appellant) appealing the Planning Commission decision approving the Planned Development.

### BASIS FOR APPEAL:

This is an appeal of a Planning Commission decision; therefore, the Appeal Hearing Officer's decision must be made based on the existing public record. This is not a public hearing; no public testimony

shall be taken. The appellant's brief is included as Attachment B and the City Attorney's response to the appeal is included as Attachment C.

**NEXT STEPS:**

If the decision is upheld, the decision of the Planning Commission stands. If decision of the Planning Commission is not upheld, the matter could be remanded back to the Planning Commission. The decision made by the Appeal Hearing Officer can be appealed to the Third District Court within 30 days.

**ATTACHMENTS:**

- A. Vicinity Map
- B. Appeal Brief
- C. City Attorney's Brief
- D. Planning Commission Record of Decision
- E. Planning Commission Minutes of June 9, 2021 Meeting
- F. Planning Commission Staff Report – Published June 3, 2021
- G. Agenda and Mailing List of the Planning Commission Hearing
- H. Early Notification Letter and Mailing List
- I. Harvath Family Opposition to Appeal

## **ATTACHMENT A: VICINITY MAP**



## **ATTACHMENT B: APPEAL BRIEF**

July 6, 2021

Erin Mendenhall, Mayor

Amy Fowler, District 7 Representative

Nick Norris, Planning Director

John Anderson, Planning Manager

cc: Brenda Scheer, Adrienne Bell, Amy Barry

RE: Case number PLNPCM2020-00826; PLN SUB 2021-00111

This extremely important letter concerns several errors made by several individuals in Salt Lake City Planning Division which, if not corrected by Salt Lake City immediately, may well end in the destruction of a long standing community (which to this point has been protected by strict laws governing development) and litigation. The Salt Lake City Planning Division is not following established law and policies, and as a result has created discord and resentment within my community. The Planning Division is also putting my 90 year-old community at risk for decay and possibly its ultimate destruction.

On June 9, 2021, the Planning Commission voted in favor of allowing case No. PLNPCM2020-00826 and PLNSUB2021-00111 to proceed. This application not only violates the zoning requirements and the adopted policies and regulations (The Standard), but also violates the Sugar House Master Plan and even the planned development purpose. Beyond all of this the approval is null and void (see Attachment A). It is difficult to imagine how so many obvious errors were allowed to occur. A review of the details of these errors follows and must be addressed in order to avoid litigation. I insist that the Planning Commission's decision to allow this project to proceed be immediately suspended. Ultimately, the proposal No. PLNPCM2020-00826 and PLNSUB2021-00111 must be denied.

It is the responsibility of the Planning Division to know the laws governing development and apply them in a knowledgeable, objective and unbiased manner. As a result of Salt Lake City's responsibilities not being carried out, my 90+ year-old community and its longstanding way of life have been placed at serious risk for decay and destruction.

The illegal zoning aspects of this application are obvious and simple. All of the proposed three lots do not meet the 80-foot road frontage width requirement. This is three violations, not one. The 80-foot requirement, along with a change from R-1/7,000 to R-1/12,000 was established by the City Council in 1997 to ensure that no one would attempt to degrade the community of Highland Acres and the collective space would be preserved. Allowing this zoning violation opposes the City Council's decision of 1997. I cannot understand why the Planning Division and Commission would promote this violation of the zoning requirements established by Salt Lake City Council to protect Highland Acres. At the Planning Commission meeting on June 9, 2021, the project planner Chris Earl noted in the first issue, the reduced lot widths are a "concern." In fact, they are a violation. In the third issue which the project planner discussed, he stated and put in writing that the proposal "will meet all the zoning requirements found in the R-1/12000 district." Chris Earl was wrong in presenting this. My question is, was this intended or a mistake?

Several of the planned development standards (adopted policies and regulations) are violated by this application. At the June 9 meeting, the Planning Commission, with minimal discussion, did not fully consider the lack of compatibility with the Standards. "A primary goal of the Sugar House Master Plan is to preserve and improve a desirable residential environment." The project planner noted at the June 9 meeting that the proposal "attempts to preserve and enhance neighborhood and district character." This is absolutely incorrect. The proposal attempts to begin degradation of the neighborhood and

district character (see Attachment B). Worse yet, the applicant's legal counsel indicated they will likely not retain the property at 1852 E. So it appears to me that this proposal is intended to not only degrade the neighborhood, but also be a moneymaker for the applicant. It is important to note that Salt Lake City will also be a beneficiary of this decision whether or not the Harvaths keep the 1852 E 2700 S property and this puts Salt Lake City in a conflicted position.

The Planning Division and Planning Commission of Salt Lake City has a great responsibility to the citizens of our communities to make well informed, knowledgeable and conscionable decisions which carry with them great effects on our lives. Commission members must be able to scrutinize, to read between the lines and know when boundaries have been violated. Verifiably, the difficult decisions being determined by the Commission have great impacts on peoples' homes, peoples' lives and peoples' well-being. An entire community like that of 90 year-old Highland Acres in Salt Lake City could be ultimately destroyed by a misguided process. And to complicate it further you start off out of the gates, conflicted. Beginning from a position of conflict there must be no bias, you must explain and demonstrate facts supporting and facts defeating fully, and equally.

Highland Acres is classified as a very low density land use area which contains less than 5 dwelling units per acre. This is quite different from a low density residential classification. The attorney for this application mistakenly referred to this area as a low density residential classification. The proposal violates the very low density land use classification by increasing the density to 5.4 dwellings per acre (must be below 5.0 dwellings per acre). This is a violation of the planned development policy to "ensure the site and building design of residential planned development are compatible and integrated with the surrounding neighborhood."

The Sugar House Master Plan states “when an interior area of a block is developed for a flag lot, the privacy and open space that was originally enjoyed by the neighborhood residents, is lost.” Thus Standard C, Design and Compatibility, is violated. There simply are no dwellings in the backs of these lots. There are none. The project planner incorrectly referred to the project as “infill.” Infill refers to “new single family housing opportunities in Sugar House limited to scattered, vacant infill sites.” Highland Acres does not allow infill. The project planner failed to mention this fact. I would ask that you look at the Sugar House Master Plan map and see that this is true, if you are unaware of this fact. Given that “infill” is not allowed in Highland Acres, again, this proposal should have never been accepted. It appears that overlooking the extremely important considerations that Highland Acres is a very low density residential area (not low density) and infill is not allowed in this area demonstrates either incompetence, corruption or both on the part of the Planning Division staff. It is the Planning Division and Planning Commission’s responsibility to have a working knowledge of this information and apply it objectively and equally to all of the citizenry. In their decision to allow this project to go forward, it appears the Commission Members may not have been aware and/or misled, did not consider “the scale, mass and intensity of the proposed planned development is compatible with the neighborhood where the planned development will be located and/or the policies stated in an applicable Master Plan related to building and site design.” The Sugar House Master Plan does not allow infill in this area. By law, there are no developments in the rear portions of these lots given the 80-foot frontage requirement. In response to multiple comments made by the applicant, the project planner and the planning commission regarding the “large,” “deep” lots, they all need to know these are not “scattered,” not “vacant” infill sites. And beyond that, while they are welcome to their opinions, what is it to them how deep and long our lots are? Given their decision is illegal, what personal interest do they have in developing these “large,” “long” “deep” lots? In fact, it appears to the project planner acted more as a



private consultant for the applicant rather than a public servant for the community. I want to know how much time he put into this private project over the last 10 months or so.

Regarding the fourth issue which was addressed by the project planner at the June 9 meeting, “the request aligns with many policies found within the Sugar House Master Plan....the request aligns with policies of this plan related to increased housing stock and infill development.” Again, the project planner was incorrect. Highland Acres is a very low density residential area with less than 5 dwellings/acre and infill is not allowed in this area. The project planner then stated regarding the project, “attempts to preserve and enhance neighborhood and district character.” This is flat out false.

Lastly, the application violates Standard F--existing site features. In fact, the proposed planned development looks to destroy “natural and built features that significantly contribute to the character of the neighborhood and/or environment.” The collective unoccupied space of the two blocks of Highland Acres ***is the character of the community***. I believe the applicant’s legal representative, Vicky Hales, tried to con everyone while saying “no one is seeking to change the nature of the neighborhood in any huge respect.” She has visited and stayed here many times and knows well this is a false statement. In fact, I believe many of her statements were an attempt to minimize the impact on the community, distract with the “aging in place” plea and appear as though they are following the law. At the Sugar House Community Council meeting in March, Vicky Hales and Barbara Harvath outlined a plan to not only develop both of Harvaths’ lots, but to develop other lots should they become available for purchase (see Attachment B): the true intent of the Harvaths.

Section 25A.55.060 addresses the minimum area of a planned development. It states: “a planned development proposed for any parcel or tract of land under single ownership or control in certain zoning

districts shall have a minimum net lot area as set forth in Table 21A.55.060 of this section.” The minimum planned development size for R-1/12000 single family residential district is 24,000 square feet. Were the Harvaths led to this loophole by the project planner? Beyond all of the legal violations and lack of consideration of the applicant’s neighbors’ opposition, is the biased and inappropriate approach of the project planner, Planning Commission and Planning Commission chair. It is their responsibility to discuss thoroughly and weigh in objectively on the facts considered. Perhaps the most egregious bias is the statement that was made by Brenda Scheer, the Planning Commission Chair. Immediately prior to the planning commission’s vote, the Chair stated to the applicant’s attorney, “I think you’ll be happy with the conclusions, so I don’t think you’ll want to interfere.” This indicates that Brenda knew the outcome of the vote. Though when asking for a motion on this proposal she had to beg Amy Barry for a motion. Ultimately, Amy Barry did not make the motion, and it was a full 21 seconds until Adrienne Bell made the motion to bring the proposal to a vote. Prior to the vote, the behavior of two Commission Members’ leaving the hearing during the public comment period is absolutely both outrageous and outlandish. In fact, this behavior made null and void the Commission’s decision. I have never seen such uninformed and unprofessional conduct as was demonstrated at this meeting.

The Harvaths initially wanted to develop the rear portion of both lots at 1844 E and 1852 E 2700 South. Salt Lake City refused this request. The Harvaths were then “guided” to use the Planned Development route. With what appears to be significant consultation and support from the project planner, Vicky Hales stated, “Chris has done a wonderful job of helping us.” Chris Earl, on the other hand, did not do a wonderful job of helping the rest of the Highland Acres community. I asked that he photograph surrounding neighbors’ views of the project. He stated that they do not provide photographs from the surrounding neighbors’ view. I told Chris that his information would be biased and incomplete if that were the case. I asked him how he and Salt Lake City could be objective in the decision process when

not considering all community members' views. In the June 9 hearing, so much emphasis was placed on the view from the street, not the surrounding neighbors' view. As well, emphasis was placed on the applicants' illegal desires and not the rights of the surrounding neighbors. I additionally stated to Chris Earl in our discussion on April 30, 2021 at 11:40 a.m. that the two detached structures labeled as garages on the preliminary plat function more as dwellings. He seemed quite disinterested and recommended that I report this to Enforcement. I have lived next door to the Harvaths for the entire 15 years they have been here. I know well that these two structures do not function as garages. In fact, one has no garage doors (1852 E.) and the other has several young people entering and leaving consistently throughout the day and night. Never has an automobile entered or emerged from the structure at 1852 E 2700 S while the Harvaths have owned it. I have never seen an automobile enter or emerge from the 1844 E "garage" either. That is because it has not happened. I verbally noted to Chris in the April 30 discussion and also at the June 9 hearing that this misleading non-factual information on the original request should disqualify the proposal. This issue was not addressed by Chris, Vicky Hales or the Commission members. Despite the fact that a complaint had been filed with Enforcement on this issue, Chris Earl never mentioned this and the Planning Commission did nothing. Perhaps it was so because Chris Earl neglected to mention it. I mentioned it though. No discussion. The enforcement officer, Angela, has not been allowed to inspect the "garage" mentioned in the complaint. In fact, according to Angela, David Harvath has "canceled" or "forgot" their appointments on three occasions. On a site visit in June, Angela, the enforcement officer, and her supervisor were refused access to inspect the "garage," which has plumbing but no functioning garage doors.

At the Sugar House Community Council meeting, Vicky Hales verbalized future plans of the Harvaths to develop more of the half-acre lots in Highland Acres if they become available to them through sale.

Barbara Harvath has expressed an interest to see the interior my house if I was considering selling. How

does all this fit in with “aging in place”? During the discussion at the June 9 hearing, Jon Lee asked about the possibility of an ADU as an option. The Commission Members and Chair, in a gross boundary violation, answered for the applicant with the Chair noting that ownership of the 1852 E. property might be retained for resale of the property. The applicant’s legal representative later confirmed this. Why was the Commission compelled to answer for the applicants? This was prior to the proposal having been approved. The privilege of Salt Lake City making the decision on this proposal is so very heavily conflicted. I can’t see how it could be worse. All of the inaccuracies and biases of the project planner in his “help” to the Harvaths, the gathering of data and the factually incorrect presentation of the data do not allow for an objective, unbiased hearing. Lack of adequate representation of the surrounding community members in opposition and the reminder by Chris Earl during our April 30 discussion, that public comment at the hearing if not factually based is considered “Public Clamor,” all tell the story. The residents of Highland Acres are long time community members and their homes and the large lots they occupy are likely the largest investments of their lives. And Salt Lake City considers the emotions and thoughts regarding their homes and neighborhood as Public Clamor. In many peoples’ views, the city and one or two residents’ concerns of making a profit take a fourth or fifth chair to the long-term residents’ property protections under law and their thoughts and feelings about their homes.

It appears to me the Planning Commission views the citizens’ right to protection of their homes/properties as inconsequential. It also appears the project planner easily manipulated this proposal by cherry picking the legal aspects of this application and dismissing the more numerous illegal aspects of this application. I will remind the members of the Planning Division and Planning Commission that they work for all of the citizens of Salt Lake City, including everyone in Highland Acres. It appears though, that the project planner was more of a private consultant. I insist that the decision of the Planning Commission on this request be immediately suspended until further thorough review by the

City Council. Then it must be denied. Salt Lake City will obey its laws and protect all of the citizens' interests. Finally, I want to request that all the relationships involving conflict be disclosed. This is my second request for disclosure of conflicts. None have been reported to me at this point.

Finally, let's consider the adverse consequences of this planned development and the Planning Commission decision to this point: (1) the death of the project planner, Chris Earl, is indirectly (may be directly) related. Why did the Planning Division allow Chris Earl to continue to work when he was deathly ill? This demonstrates extremely poor judgment by the Planning Division and Chris Earl himself. (2) the absolute loss of over 80 hours of physician health care delivery time which resulted because the Planning Division and project planner did not represent the citizenry equitably. In other words, I have spent over 80 hours in pursuing and uncovering the bias and incorrect information of this illegal proposal. (3) The Planning Division did not support the current enforcement complaint by tabling the proposal until the complaint was resolved. This creates division within the Salt Lake City departments. (4) The Planning Division has engendered discord and resentment by promoting division within my community. In fact, they considered the only favorable comments of this proposal by Rich Nickerbocher and Sally Barraclough, who are definitely not members of Highland Acres and whose opinions have no bearing. (5) The Planning Division encouraged an "each man for himself" mentality in my community by illegally changing the frontage requirements on three lots in Highland Acres to accommodate one family.

Thank you for your attention to this extremely important matter. I look forward to pursuing a legal outcome as opposed to the decision which was made by the Planning Commission which is not supported by the law. The links to the Sugar House Community Council land use meeting on March 15, 2021 and the Salt Lake City Planning Commission hearing on June 9, 2021 are

[https://us02web.zoom.us/rec/share/Pk7KFJuqx81RpSO4\\_uwOxWsFr\\_mERGKjLJ6lwAaVJtf2Lfj6Ci8XsiHjhJWUkpk.qz7w1i1jRlXiU39K](https://us02web.zoom.us/rec/share/Pk7KFJuqx81RpSO4_uwOxWsFr_mERGKjLJ6lwAaVJtf2Lfj6Ci8XsiHjhJWUkpk.qz7w1i1jRlXiU39K) and <https://youtu.be/OZ2ZJgARaE0>, respectively.

Sincerely,

*Kevin L. Donahue, MD*

Kevin L. Donahue, MD

cc: File  
Attorney

## Attachment A

Please note that construction began this morning based on your decision to approve Case number PLNPCM2020-00826 and PLN SUB 2021-00111. However, the decision to approve is null and void.

Given that two members of the Planning Commission left the hearing during the public comment period (without acknowledgment by the chair or any other member), the Planning Commission was deprived of a quorum and thus the decision must be null and void. These two members voted on the motion despite being absent for a part of the public hearing.

In addition, remarkably, prior to the vote, the Chair accurately predicted the outcome of the vote. She stated to the attorney for the petitioner, "I think you'll be happy with the conclusions, so I don't think you'll want to interfere." Furthermore, when asking for a motion, she actually begged Amy Barry for the motion and it ultimately took a full 21 seconds before Adrienne Bell made the motion: "Based on the findings listed in the staff report of the information presented and *the input received from the public hearing*, I move that the Planning Commission approve the planned development petition PLNPCM2020-00826 and PLN SUB 2021-00111."

Had Ms. Young-Otterstrom and Ms. Hoskins recused themselves, there would not have been a quorum. Proceeding in this manner opens the door for personal liability.

## Attachment B: The True Intent of the Harvaths Based on Their Statements

The facts below can be confirmed through viewing the Sugar House Community Council Land Use and Zoning Meeting regarding the Harvaths' application and presentation on March 15, 2021. The Harvaths' elaborate plans of hopefully developing several lots in Highland Acres were demonstrated at the Sugar House Land Use and Zoning meeting, but minimized at the Planning Commission hearing with the "aging in place" plea more strongly represented. The applicant's legal representative noted that the Harvaths suggested building in the back of both lots to the Planning Division, but the Planning Division stated that would not be allowed. After a comment by Soren Simonson to possibly put "three or four houses in the back" of both lots, the applicant's legal representative stated the "Harvaths would be very open to" it. Soren Simonson, quite incorrectly, stated "seems like it would be really consistent with some of the master plans for Sugar House" regarding putting three or four homes in the back. Soren Simonson also incorrectly stated, "here's a way to have housing that doesn't change at all the character of the neighborhood and you can't do it." The Harvaths have planned for the possibility, if any, of the half-acre lots to the east become available. The legal representative of the applicant noted that my lot (Kevin Donahue), "has an under-utilized backyard." She added that they already planned emergency access going east in the back of their lot at 1852 East and through my property also. She specifically noted, "and you could do this behind numerous lots." Though David Harvath has already approached Salt Lake City with a zoning change which was "rebuffed," his legal counsel notes he may still pursue this in the future. After disclosing all of these plans, the applicant's legal counsel stated, "no one is seeking to change the neighborhood in any huge respect." Lastly, she stated, "no one is trying to change Kevin's lot," though we heard of the Harvaths' desires to do just that.



## **ATTACHMENT C: CITY ATTORNEY'S BRIEF**

ADMINISTRATIVE HEARING OF A LAND USE APPEAL

(Case No. **PLNAPP2021-00696**)

(Appealing Petition No. PLNPCM2020-00826)

August 12, 2021

Appellant:	Kevin L. Donahue, MD
Decision-making entity:	Salt Lake City Planning Commission
Address Related to Appeal:	1844 E. 2700 S. and 1852 E. 2700 S.
Request:	Appealing the planning commission's approval of planned development
Brief Prepared by:	Paul C. Nielson, Senior City Attorney

Land Use Appeals Hearing Officer's Jurisdiction and Authority

The appeals hearing officer, established pursuant to Section 21A.06.040 of the *Salt Lake City Code*, is the city's designated land use appeal authority on appeals of planning commission decisions as provided in Chapter 21A.16 of the *Salt Lake City Code*.

Standard of Review for Appeals to the Appeals Hearing Officer

In accordance with Section 21A.16.030.A of the *Salt Lake City Code*, an appeal made to the appeals hearing officer "shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court." It is the appellants' burden to prove that the decision made by the land use authority was incorrect. (Sec. 21A.16.030.F). Moreover, it is the appellants' responsibility to marshal the evidence in this

appeal. Carlsen v. City of Smithfield, 287 P.3d 440 (2012), State v. Nielsen, 326 P.3d 645 (Utah, 2014), and Hodgson v. Farmington City, 334 P.3d 484 (Utah App., 2014).

“The appeals hearing officer shall review the decision based upon applicable standards and shall determine its correctness.” (Sec. 21A.16.030.E.2.b). “The appeals hearing officer shall uphold the decision unless it is not supported by substantial evidence in the record or it violates a law, statute, or ordinance in effect when the decision was made.” (Sec. 21A.16.030.E.2.c).

This case deals with application of Section 21A.55.050 (Standards for Planned Developments) of the *Salt Lake City Code*.

### **Background**

This matter was heard by the planning commission on June 9, 2021 via electronic meeting on a petition by David and Barbara Harvath (“Applicants”) for planned development and preliminary subdivision approval to subdivide the lot located at 1852 E. 2700 S. and modify the lot line for the lot located at 1844 E. 2700 S. The purpose of the preliminary subdivision application is to allow the Applicants to build an additional single-family dwelling to the rear of the existing dwelling on the 1852 E. lot and provide a driveway between the two existing lots in order for the new lot to have street access. The Applicants applied for planned development approval in order for the planning commission to modify the lot width requirements for all three lots. Video of the commission’s June 9, 2021 public meeting is part of the record of this matter and is found at <https://www.youtube.com/watch?v=OZ2ZJgARaE0&t=3481s> (00:55:28 to 1:32:09).

Planning division staff prepared a report for the commission’s June 9, 2021 meeting in which staff determined that the petitions for planned development and preliminary subdivision met the standards for approving those petitions. (See Planning Division Staff Report Dated June

9, 2021). The staff report includes a point-by-point analysis of the standards with corresponding findings in Attachments E, F, and G.

At the June 9, 2021 electronic meeting, planning division staff presented an overview of the proposed development project, provided visual materials, and responded to commission members' questions. (See Video of June 9, 2021 Planning Commission Meeting at 56:03 to 1:06:05). Applicant's representative, Victoria Hales, provided a narrative of the development proposal. (See Video of June 9, 2021 Planning Commission Meeting at 1:06:15 to 1:14:58).

The commission held a public hearing at the June 9, 2021 meeting, following which the Applicant provided a response to some of the comments provided. (See Video of June 9, 2021 Planning Commission Meeting at 1:15:08 to 1:25:55).

Following the public hearing on this matter, the planning commission discussed the petitions and voted to approve<sup>1</sup> the planned development and preliminary subdivision "based on the findings listed in the staff report, the information presented [at the June 9, 2021 meeting], and the input received during the public hearing". (See Video of June 9, 2021 Planning Commission Meeting at 1:25:55 to 1:32:09).

A written record of decision was issued on June 25, 2021. Appellant, Kevin L. Donahue, MD ("Appellant") submitted an appeal of the planning commission's decision on or about July 6, 2021.

### **Discussion**

Appellant's appeal document asserts that the planning commission decision violates the standards for planned development. The appeal document also includes a hodgepodge of claims that city staff acted inappropriately, that the outcome of the decision to approve the applications

---

<sup>1</sup> The motion to approve the planned development and preliminary subdivision was passed by a 5-0 vote.

was predetermined by members of the planning commission, that two commission members left the meeting during the public hearing, that the unfortunate death of the city planner who presented this matter to the commission was caused by the planning division, and other unsupported conclusory statements. While resisting the urge to take a physician to task for his inappropriate and baseless allegations about the cause of a city planner's tragic death, the city will simply suggest that the hearing officer feel free to point out to the Appellant that such offensive nonsense is way outside the bounds of what is helpful and appropriate to be considered in a land use appeal. Because that majority of content in Appellant's appeal document is meritless and irrelevant, the city will limit its response to Appellant's assertions regarding the planned development standards.

As a preliminary matter, it should be noted that Appellant has not challenged the preliminary subdivision approval in any way. Thus, the commission's decision to approve the preliminary subdivision cannot be overturned. Additionally, Appellant included two attachments to his appeal document that were not part of the record before the planning commission and must, therefore, not be considered by the hearing officer regardless of how irrelevant the information contained in those attachments may be since this appeal of a planning commission decision is to be based on the record per *Salt Lake City Code* Subsection 21A.16.030.E.2.

Appellant's challenge to the planning commission's approval of the planned development appears to make three claims related to standards: 1) that approving the planned development violates zoning standards for the R-1/12,000 zoning district; 2) that the proposed planned development will be incompatible with the surrounding neighborhood; and 3) that the proposed planned development is contrary to master plan policies. The city will address these in turn.

First, Appellant's claim that the proposed planned development will violate provisions of the R-1/12,000 zoning district ignores that the whole point of a planned development is to gain relief from the otherwise applicable zoning requirements if certain standards are met as stated in *Salt Lake City Code* Section 21A.55.020. Without the planned development approval, Appellant is correct that the lot width standards would not be met. The Salt Lake City Council adopted the provisions of Chapter 21A.55 to allow some deviation from the established rules where appropriate. Appellant's characterization of "[t]he illegal zoning aspects of this application" that "the proposed three lots do not meet the 80-foot road frontage width requirement" represent "three violations, not one" (Appellant's Appeal, p. 2) completely misunderstands the point of a planned development application. Moreover, Appellant has not alleged that the commission's decision was unsupported by substantial evidence in the record--thus, arbitrary and capricious--and cannot logically establish that an authorized planned development is illegal. Accordingly, Appellant's assertions regarding the illegality of allowing lot widths in the R-1/12,000 zoning district that are less than 80 feet is defective on its face and must be rejected by the appeals hearing officer.

Second, Appellant's argument that the proposed planned development will be incompatible with the surrounding neighborhood is simply his own unsupported opinion and he fails to meet his burden of showing that there is no substantial evidence in the record to support the commission's decision to approve the planned development. The hearing officer has no authority to substitute the hearing officer's, the Appellant's, or any other person's judgment for that of the planning commission. Just because Appellant has a different opinion and perspective does not mean that the commission's decision was somehow defective. Appellant has not met his burden of proving the commission's decision was arbitrary, capricious, or illegal.

Finally, Appellant claims that the proposed planned development would be inconsistent with adopted master plan policies--a standard that must be met per Subsection 21A.55.050.B of the *Salt Lake City Code*--because: 1) the approved development would run afoul of the Sugar House Master Plan Future Land Use Map's policy of limiting development on the subject properties to less than 5 dwelling units per acre, and 2) that master plan does not allow infill development in the area.

As to the first argument, the staff report clearly points out that the two existing lots are a half acre (21,780 square feet) each in area, and that the resulting Lot 1 would be 19,501 square feet, Lot 2 would be 12,004 square feet, and Lot 3 would be 12,176 square feet. (See Planning Division Staff Report dated June 9, 2021 at p. 2). Each of those lots would meet the zoning district's required 12,000 square feet minimum lot area. Further, 5 dwelling units per acre would require a minimum of 8,712 square feet per lot. Exactly how Appellant concluded that there will be 5.4 dwellings per acre is a mystery since, amongst the three lots totaling one acre, there will be three dwellings.

As to the second argument that the Sugar House Master Plan does not allow for infill development in this area, the hearing officer should consider that the same section of the master plan that Appellant selectively cites regarding flag lots states the following:

**Flag Lots**

The Sugar House Community contains several areas where lots are narrow and deep that may be suitable for Flag Lot development. An opportunity exists for infill residential units using the Flag Lot subdivision approach. If the residential lot is wide enough and the entire parcel is large enough, a driveway can be built along the side of the existing house to access a new lot and house behind the existing house. This approach of infill housing has been used in Sugar House in limited areas. However, the neighborhood response has generally been very negative.

(Sugar House Master Plan, p. 3 (adopted November 2001)). This paragraph clearly shows that infill development is contemplated in the form of flag lots being created from larger, deep lots and that Appellant's assertion is patently incorrect.

### **Conclusion**

Appellant has failed to meet his burden of proving that the Salt Lake City Planning Commission's decision to approve the Applicant's planned development and preliminary subdivision applications (to the extent that there's any feasible claim that subdivision approval has been challenged) was in any way arbitrary, capricious, or illegal. For this reason and all of the reasons stated above, Appellant's arguments must be rejected and the planning commission's decision be upheld.



## **ATTACHMENT D: PLANNING COMMISSION RECORD OF DECISION**

---



June 25, 2021

David and Barbara Harvath  
1852 East 2700 South  
Salt Lake City, UT 84106

RE: Record of Decision for Petitions PLNPCM2020-00826 (Planned Development) and PLNSUB2021-00111 (Preliminary Plat) at 1844 E. 2700 South and 1852 E. 2700 South

Dear Mr. and Mrs. Harvath:

On June 9, 2021 the Salt Lake City Planning Commission granted Planned Development and Preliminary Plat approval for the property located at approximately 1844 E. 2700 South and 1852 E. 2700 South in Salt Lake City.

This Record of Decision is provided to you indicating the date action was taken, the decision of the Planning Commission including any approval conditions, the one-year time limit on the approval, the limitations on modifications to the plans, and the 10-day appeal period.

*Project Description*

The Planning Commission reviewed and approved the following project:

Planned Development & Preliminary Plat at approximately 1844 & 1852 East 2700 South – David and Barbara Harvath, property owners, are requesting Planned Development and Preliminary Plat approval to subdivide two lots at 1844 E 2700 S and 1852 E 2700 S and create a third lot in the rear portion of 1852 E 2700 S. The newly created lot would be created to facilitate a new single-family residence. The request would result in three lots that do not meet minimum lot width requirements but would meet the minimum lot size as required in the R-1/12,000 Single-Family Residential zoning district. The project is located in the R-1/12,000 (Single-Family Residential District) within Council District 7, represented by Amy Fowler.

a. Planned Development: The R-1/12,000 zoning district requires a minimum lot width of 80 feet. The proposed lot width for the lot located at 1844 E 2700 S would be 67.3 feet wide, the proposed lot width for the lot located at 1852 E 2700 S would be 68.7 feet wide and the proposed lot width for the newly created lot would be 24 feet wide. Planned Development approval is required due to the requested modified lot width for the new and existing lots. Case number PLNPCM2020-00826

b. Preliminary Plat - The proposal requires preliminary subdivision approval to modify the existing two lots to create an additional lot, three in total. This is normally an administrative process that can be approved by Planning staff, but because the application is tied to the Planned Development, the subdivision is being taken to the Planning Commission for joint approval. Case number PLNSUB2021-00111

### *Conditions of Approval*

The following conditions were applied to the approval of the proposal:

1. The structure on Lot 3 shall have quality primary exterior building materials such as brick and stone and accent materials such as Hardie board siding and stucco.
2. The structure on Lot 3 shall be subject to the requirements of 21A.24.010.I Front Façade Controls.
3. The mature fruit trees on Lot 3 are to be preserved.
4. Applicant must provide a disclosure of private infrastructure costs for the shared driveway as required in 21A.55.110. An easement shall be dedicated along the driveway providing perpetual access to all three parcels.
5. The applicant shall comply with all required department comments and conditions.

### *Review Process Standards and Findings of Fact*

The Planning Commission made specific findings related to the standards of review for Planned Developments and Preliminary Plats as stated in Chapter 21A.55 and Chapter 20.16 of the City Code. The decision was also based on the purpose of the zoning ordinance, the purpose of the zoning district where the project is located, the information contained in the staff report, the project details provided by you, testimony from the public, and the discussion of the Planning Commission. Copies of this information are available online here: <https://www.slc.gov/planning/planning-commission-agendas-minutes/>.

### *Modifications to the Approved Plans*

To obtain a building permit, all plans must be consistent with the plans reviewed and approved by the Planning Commission. The plan approved by the Planning Commission constitutes the site design in relation to building placement and design, landscaping, mobility and circulation elements, and any elements that were approved as zoning modifications through the Planned Development process. Modifications to the plan requires an application to the Planning Division and the Planning Director can only approve narrowly defined minor modifications as listed in 21A.55.100B of the Zoning Ordinance. Any modification not listed as a minor modification requires approval by the Planning Commission.

### *Time Limit on Approval*

No planned development approval shall be valid for a period longer than one year from the date of approval unless a building permit is issued or a complete building plans and building permit applications have been submitted to the Division of Building Services and Licensing. An extension of one year may be granted by the Planning Commission. Extension requests must be submitted in writing prior to the expiration of the planned development approval.

An application for final plat must be submitted within 18 months of preliminary plat approval and the final plat must be recorded within 24 months of preliminary approval. If either of these conditions are not met, the preliminary plat approval is void.

### *10-Day Appeal Process*

There is a **10-day appeal period in which any affected party can appeal the Planning Commission's decision**. This appeal period is required in the **City's Zoning Ordinance and allows time for any affected party to protest the decision, if they so choose**. The appeal would be heard by the Appeals Hearing Officer. Any appeal, including the filing fee, would have been required to be submitted by the close of business on July 6, 2021.

The summary of action for the Planning Commission meeting **is located on the Planning Division's** website at: <https://www.slc.gov/planning/public-meetings/planning-commission-agendas-minutes/>.

If you have any questions, please contact me at (385) 226-6479 or [john.anderson@slcgov.com](mailto:john.anderson@slcgov.com).

Sincerely,

A handwritten signature in black ink that reads "John Anderson". The script is fluid and cursive, with the first letters of each word being capitalized and prominent.

John Anderson  
Planning Manager

cc: File

## **ATTACHMENT E: PLANNING COMMISSION MINUTES**

**SALT LAKE CITY PLANNING COMMISSION MEETING**  
**This meeting was held electronically**  
**Wednesday, June 9, 2021**

A roll is being kept of all who attended the Planning Commission Meeting. The meeting was called to order at approximately 5:30 pm. Audio recordings of the Planning Commission meetings are retained for a period of time. These minutes are a summary of the meeting. For complete commentary and presentation of the meeting, please visit <https://www.youtube.com/c/SLCLiveMeetings>.

Present for the Planning Commission meeting were: Chairperson, Brenda Scheer; Vice Chairperson, Amy Barry; Commissioners; Adrienne Bell,Carolynn Hoskins, Jon Lee, and Crystal Young-Otterstrom. Commissioners Maurine Bachman, Matt Lyon, Andres Paredes, and Sara Urquhart were excused.

Planning Staff members present at the meeting were: Michaela Oktay, Planning Deputy Director; John Anderson, Planning Manager; Paul Neilson, Attorney; Nannette Larsen, Principal Planner; David Gellner, Principal Planner; Chris Earl, Principal Planner; Kelsey Lindquist, Senior Planner; Caitlyn Tubbs, Principal Planner; Amanda Roman, Principal Planner; and Marlene Rankins, Administrative Secretary.

**APPROVAL OF THE MAY 26, 2021, MEETING MINUTES.**  
**MOTION**

**Commissioner Crystal Young-Otterstrom moved to approve the May 26, 2021 meeting minutes. Commissioner Hoskins seconded the motion. Commissioners Barry, Bell, Hoskins, Lee, and Young-Otterstrom voted “Aye”. The motion passed unanimously.**

**REPORT OF THE CHAIR AND VICE CHAIR**

Chairperson Scheer stated she had nothing to report.

Vice Chairperson Barry stated she had nothing to report.

**REPORT OF THE DIRECTOR**

John Anderson, Planning Manager, informed the public that we have openings for the Planning Commission and encouraged those whom would like to be on the Commission to apply.

Michaela Oktay, Planning Deputy Director, requested the Commission attend meetings as we are at the minimum number of allowed commissioners. She also provided information on how to apply.

**Ice House Design Review at approximately 430 West 300 North** - The applicant, Amanda Risano with Kimley-Horn, representing the property owner, is requesting approval for Design Review to develop the property located at approximately 430 West 300 North. The proposal is to construct a new multi-family residential building. The proposed building will encompass 393 studio, one, and two-bedroom units. The applicant is requesting Design Review by the Planning Commission to allow for a building that exceeds the maximum street facing façade length, stucco that exceeds the maximum 10% of the facade material, a reduction in the percent of glazing on the ground floor, and a modification of the spacing of building entrances. The project is located within the TSA-UC-C (Transit Station Area Urban Center Transition) zoning district and within Council District 3, represented by Chris Warton. (Staff contact: Nannette Larsen at (385) 386-2761 or [nannette.larsen@slcgov.com](mailto:nannette.larsen@slcgov.com)) **Case number PLNPCM2020-00986**

Nannette Larsen, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Planning Commission approve the Design Review.

Sam Stribling, applicant, provided a presentation along with further information.

The Commission, Staff and Applicant discussed the following:

- Clarification on length of 490 West side of the building

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

David Scheer – Stated his opposition of the request.

Seeing no one else wished to speak; Chairperson Scheer closed the Public Hearing.

The Commission made the following comments and discussion:

- I think the massing is broken up very well
- I'm interested in knowing whether the large ground floor space will become public amenities

## **MOTION**

**Commissioner Bell stated, based on the information in the staff report I move that the Planning Commission approve the Design Review, as presented in petition PLNPCM2020-00986 with the following conditions:**

**1. The design of the project shall be consistent with this staff report and submitted Design Review application.**

**2. Any changes to the site shall comply with all standards required by City Departments.**

**Commissioner Lee seconded the motion. Commissioners Bell, Hoskins, Lee, Young-Otterstrom voted “Aye”. Commissioner Barry voted “Nay”. The motion passed 4-1.**

### **Zoning Map Amendment at approximately 835 S Redwood Road & 1668 W Indiana Avenue -**

Salt Lake City has received a request from property owner Khiem Tran requesting that the City amend the zoning map for two (2) properties located at 835 S Redwood Road and 1668 W Indiana Avenue respectively. The property at 1668 W Indiana currently contains an individual single-family dwelling while the other property is vacant. The applicant is requesting to change the zoning map designation of the property from R-1/5,000 (Single-Family Residential) to R-MU-45 (Residential/Mixed Use). No specific site development proposal has been submitted at this time. The change is consistent with changes identified in the Westside Master Plan which identified the intersection of Redwood and Indiana as the location of a future Community Node. The Master Plan is not being changed. The property is located within Council District 2, represented by Dennis Faris. (Staff contact: David J. Gellner at (385) 226-3860 or david.gellner@slcgov.com) **Case number PLNPCM2021-00249**

David Gellner, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff recommended that the Planning Commission forward a positive recommendation to the City Council.

The Commission and Staff discussed the following:

- Whether the alley affects the side yard setback
- Clarification on whether there would be a setback or step back

Khiem Tran, applicant, provided further information.

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing; seeing no one wished to speak; Chairperson Scheer closed the Public Hearing.

The Commission made the following comments:

- Given we could have a 10-foot buffer; I'm not in support of the request
- Clarification on maximum height allowed

## **MOTION**

**Commissioner Bell stated, based on the findings and analysis in the staff report, testimony, and discussion at the public hearing, I move that the Planning Commission recommend that the City Council approve the proposed Zoning Map Amendment, file PLNPCM2021-00249 for the properties located at 835 S. Redwood Road and 1168 W. Indiana Avenue respectively, proposed zone change from the R-1/5000 (Single-Family Residential) zoning district to the R-MU-45 (Residential/Mixed Use) zoning district.**

**Commissioner Lee seconded the motion. Commissioners Bell, Hoskins, Lee voted "Aye". Commissioner Barry and Young-Otterstrom voted "Nay". Chairperson Scheer voted for majority vote; she voted "Aye". The motion passed 4-2.**

**Planned Development & Preliminary Plat at approximately 1844 & 1852 East 2700 South** - David and Barbara Harvath, property owners, are requesting Planned Development and Preliminary Plat approval to subdivide two lots at 1844 E 2700 S and 1852 E 2700 S and create a third lot in the rear portion of 1852 E 2700 S. The newly created lot would be created to facilitate a new single-family residence. The request would result in three lots that do not meet minimum lot width requirements but would meet the minimum lot size as required in the R-1/12,000 Single-Family Residential zoning district. The project is located in the R-1/12,000 (Single-Family Residential District) within Council District 7, represented by Amy Fowler. (Staff contact: Chris Earl at (385-386-2760 or christopher.earl@slcgov.com)

- a. Planned Development:** The R-1/12,000 zoning district requires a minimum lot width of 80 feet. The proposed lot width for the lot located at 1844 E 2700 S would be 67.3 feet wide, the proposed lot width for the lot located at 1852 E 2700 S would be 68.7 feet wide and the proposed lot width for the newly created lot would be 24 feet wide. Planned Development approval is required due to the requested modified lot width for the new and existing lots. **Case number PLNPCM2020-00826**
- b. Preliminary Plat** - The proposal requires preliminary subdivision approval to modify the existing two lots to create an additional lot, three in total. This is normally an administrative process that can be approved by Planning staff, but because the application is tied to the Planned Development, the subdivision is being taken to the Planning Commission for joint approval. **Case number PLNSUB2021-00111**

Chris Earl, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). He stated Staff recommended that the Planning Commission approve the Planned Development and Preliminary Plat with the conditions listed in the staff report.

The Commission and Staff discussed the following:

- Clarification on width of all three lots
- Whether staff has been seeing more applications similar to this one



Victoria Hales, applicant representative, provided further details.

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Judi Short, Land Use Chair Sugar House Community Council – Stated she's not sure if this project benefits the neighborhood. She also requested that the Commission deny the request.

Laurie Poulson – Stated her opposition of the request.

Porter Donahue – Provided an email stating opposition of the request.

Seeing no one else wished to speak; Chairperson Scheer closed the Public Hearing.

Victoria Hales, applicant representative addressed the public concerns.

The Commission and Staff discussed the following:

- Clarification on why the applicant did not chose an ADU

## **MOTION**

**Commissioner Bell stated, based on the findings listed in the staff report, the information presented, and input received during the public hearing, I move that the Planning Commission approve the Planned Development petition (PLNPCM2020-00826) and Preliminary Subdivision Plat (PLNSUB2021-00111) as proposed, subject to complying with the conditions listed in the staff report.**

**Commissioner Barry seconded the motion. Commissioners Barry, Bell, Hoskins, Lee, and Young-Otterstrom voted “Aye”. The motion passed unanimously.**

**Lake Street ADU at approximately 927 S Lake Street** - Dave Brach, representing the property owner of 927 S. Lake Street, is requesting Conditional Use approval for an internal Accessory Dwelling Unit (ADU) located within the basement of a new single-family dwelling. The ADU will be approximately 1,170 square feet in size. The property is zoned R-1/5000, where ADUs must be processed as a conditional use. The subject property is location within Council District 5, represented by Darin Mano. (Staff Contact: Kelsey Lindquist at (385) 226-7227 or kelsey.lindquist@slcgov.com) **Case number PLNPCM2021-00192**

Kelsey Lindquist, Senior Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Planning Commission approve the requested Conditional Use.

The Commission and Staff discussed the following:

- Clarification on whether the existing garage will remain
- Whether there is enough street parking on the North side of the property

Michael Lawlor, applicant, was available for questions.

## **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Karen – Provided an email stating her opposition of the request.

Seeing no one else wished to speak; Chairperson Scheer closed the Public Hearing.

#### **MOTION**

**Commissioner Hoskins stated, based on the information in the staff report, the information presented, and the input received during the public hearing, I move that the Planning Commission approve petition PLNPCM2021-00192.**

**Commissioner Bell seconded the motion. Commissioners Barry, Bell, Hoskins, Lee, and Young-Otterstrom voted “Aye”. The motion passed unanimously.**

**The Commission took a 5-minute break.**

**Keane Unit Legalization at approximately 40, 42, & 44 West 500 North** - Ruairi Keane, property owner, is requesting a Special Exception to legalize an existing third unit in his building located at approximately 40 West, 42 West and 44 West 500 North. The property is located within the R-2 Zoning District and is located within Council District 3 represented by Chris Wharton. (Staff contact: Caitlyn Tubbs at (385) 315-8115 or caitlyn.tubbs@slcgov.com) **Case number PLNPCM2021-00030**

Caitlyn Tubbs, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Planning Commission deny the request.

The Commission and Staff discussed the following:

- Clarification on the standards and requirements of occupancy

Ruairi Keane, applicant, provided further information.

#### **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing;

Kathryn Anderson – Raised concerns with parking and compatibility with the neighborhood.

Ann Hammond - Raised concerns with noise and parking.

Seeing no one else wished to speak; Chairperson Scheer closed the Public Hearing.

The Commission and Staff discussed the following:

- Clarification on the year the building permit was issued
- Legal standard clarification

#### **MOTION**

**Commissioner Barry stated, based on the information in the staff report, the information presented, and the input received during the public hearing, I move that the Planning Commission approve petition PLNPCM2021- 00030with the following conditions:**

- 1. The Applicant is required to comply with all adopted standards and ordinances.**
- 2. The Applicant will obtain all required planning and building permits prior to any remodeling or construction.**

**3. The Applicant will obtain the required rental business license prior to renting the property.**

**Commissioner Bell seconded the motion. Commissioners Barry, Bell, Hoskins, Lee, and Young-Otterstrom voted “Aye”. The motion passed unanimously.**

**Height & Grading Special Exceptions at approximately 1725 S Devonshire Drive** - Kim Coates, on behalf of the property owners, is requesting special exception approval to construct a new single-family detached structure that exceeds the maximum permitted building height and maximum allowable grade changes in the FR-2/21,780 Foothills Residential District. The subject property is located at 1725 S Devonshire Drive and is undeveloped. There is a 185 square foot section of the front facing elevation that will exceed the zones maximum height limit of 28 feet by 3 feet. The grade changes requiring approval to exceed 6 feet within the buildable area and 4 feet within the rear yard area are requested for a portion of the driveway and to create a backyard patio. The subject property is located within the FR-2/21,780 Foothills Residential and within Council District 6, represented by Dan Dugan. (Staff contact: Amanda Roman at (385) 386-2765 or amanda.roman@slcgov.com) **Case number PLNPCM2021-00238**

Amanda Roman, Principal Planner, reviewed the petition as outlined in the Staff Report (located in the case file). She stated Staff recommended that the Planning Commission approve the request.

Sarah and Matt DeVoll, applicants, provided further information and were available for questions.

#### **PUBLIC HEARING**

Chairperson Scheer opened the Public Hearing; seeing no one wished to speak; Chairperson Scheer closed the Public Hearing.

#### **MOTION**

**Commissioner Barry stated, based on the information listed in the staff report, the information presented, and the input received during the public hearing, I move that the Commission approve the Special Exception requests for grading and additional building height at 1725 S Devonshire Drive as presented in petition PLNPCM2021-00238.**

**Commissioner Hoskins seconded the motion. Commissioners Barry, Bell, Hoskins, Lee, and Young-Otterstrom voted “Aye”. The motion passed unanimously.**

**The meeting adjourned at approximately 8:10 pm.**

# **ATTACHMENT F: PLANNING COMMISSION STAFF REPORT**

---



# Staff Report

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Chris Earl, Principal Planner  
(385) 386-2760 or [christopher.earl@slcgov.com](mailto:christopher.earl@slcgov.com)

Date: June 9, 2021

Re: PLNPCM2020-00826 and PLNPCM-2021-00111 Harvath Planned Development and Preliminary Plat

## Planned Development & Preliminary Plat

**PROPERTY ADDRESS:** 1844 E 2700 S & 1852 E 2700 S  
**PARCEL ID:** 16-21-480-004-0000 & 16-21-480-005-0000  
**MASTER PLAN:** Sugar House Master Plan  
**ZONING DISTRICT:** R-1/12,000 Single-Family Residential

**REQUEST:** David and Barbara Harvath, property owners, are requesting Planned Development and Preliminary Plat approval to subdivide two lots at 1844 E 2700 S and 1852 E 2100 S and create a third lot in the rear portion of 1852 E 2700 S. The newly created lot would facilitate a new single-family residence. The request would result in three lots that do not meet lot width requirements found in the R-1/12,000 Single-Family Residential zoning district but do meet the minimum lot size requirements.

**Planned Development (PLNPCM2020-00826):** The R-1/12,000 zoning district requires a minimum lot width of 80 feet. The proposed lot width for the lot located at 1844 E 2700 S would be 67.3 feet wide, the proposed lot width for the lot located at 1852 E 2700 S would be 68.7 feet wide and the proposed lot width for the newly created lot would be 24 feet wide. Planned Development approval is required due to the requested modified lot width for the new lots.

The Planned Development process includes standards related to whether any modifications will result in a better final product, whether it aligns with City policies and goals, and is compatible with the area or the City's master plan development goals for the area. The full list of standards is in Attachment F.

**Preliminary Subdivision (PLNSUB2021-00111):** The proposal requires preliminary subdivision approval to modify the existing two lots to create an additional lot, three in total. This is normally an administrative process that can be approved by Planning staff, but because the application is tied to the Planned Development, the subdivision is being taken to the Planning Commission for joint approval. The standards of review are in Attachment G.

**RECOMMENDATION:** Based on the information in this staff report, Planning Staff recommends that the Planning Commission approve the proposal as proposed and subject to complying with all applicable regulations and the conditions below:

1. The structure on Lot 3 shall have quality primary exterior building materials such as brick

- and stone and accent materials such as Hardie board siding and stucco.
2. The structure on Lot 3 shall be subject to the requirements of 21A.24.010.I Front Façade Controls.
  3. The mature fruit trees on Lot 3 are to be preserved.
  4. Applicant must provide a disclosure of private infrastructure costs for the shared driveway as required in 21A.55.110. An easement shall be dedicated along the driveway providing perpetual access to all three parcels.
  5. The applicant shall comply with all required department comments and conditions.

#### **ATTACHMENTS:**

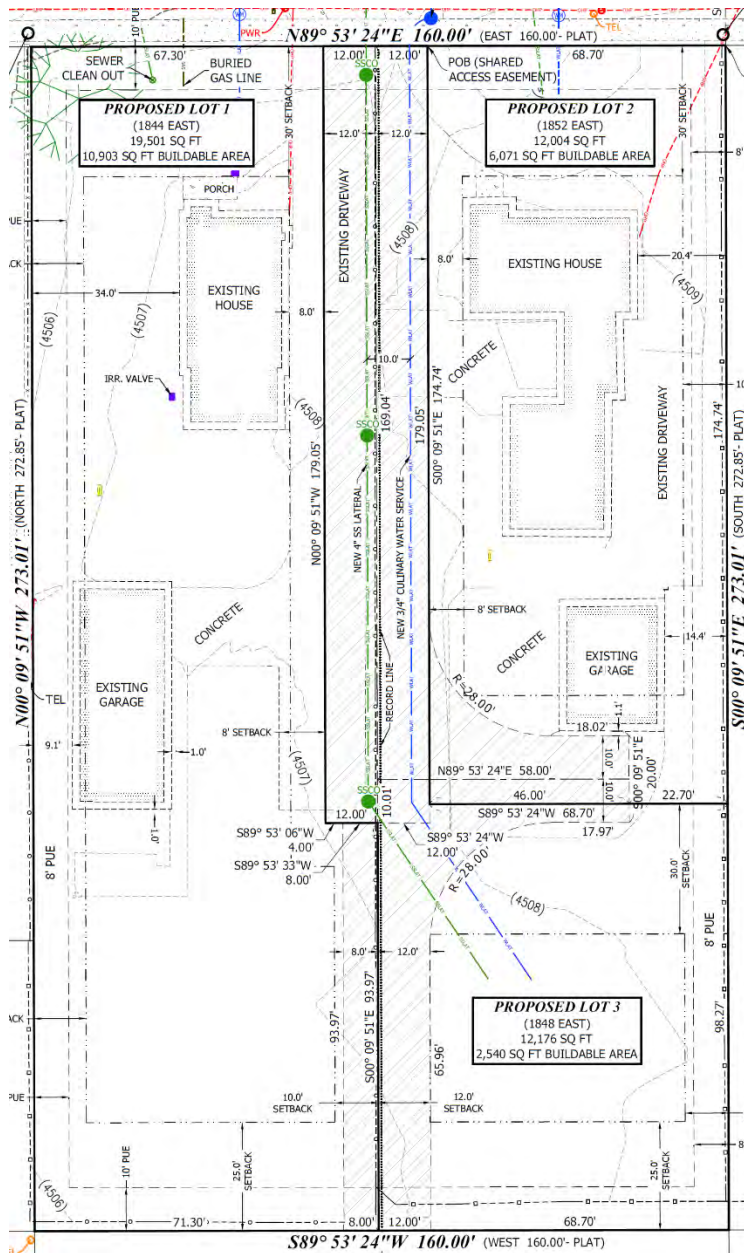
- A. [Vicinity Map](#)
- B. [Property & Vicinity Photographs](#)
- C. [Applicant Submittal](#)
- D. [Existing Conditions](#)
- E. [Institutional Zone Standards Summary](#)
- F. [Analysis of Planned Development Standards](#)
- G. [Analysis of Preliminary Plat Standards](#)
- H. [Public Process & Comments](#)
- I. [Department Review Comments](#)

#### **PROJECT DESCRIPTION:**

The subject properties are located along the south side of 2700 South between Melbourne Street and 2000 East in the Sugar House area. The properties are located within the Highland Acres subdivision, dedicated in 1926. Generally, the lots contained within this subdivision are sizable, being approximately one-half acre in size. By current zoning standards, these lots would exceed the maximum allowable lot size for the R-1/12,000 zoning district of 18,000 square feet. Due to the substantial size of the property, the applicant is seeking approval for a three-lot residential planned development. The proposal would be to subdivide the two existing lots located at 1844 & 1852 E 2700 South and create three separate lots. The newly created lot would be to the rear of the property located at 1852 East.

Each existing parcel is approximately 0.5 acres (21,780 square feet) in size and each having a street frontage of 80 feet. The third lot would be located to the rear of the 1852 East property with street frontage located between the two existing lots. Lot 1 (1844 East) would have a street frontage of 67.3 feet and be approximately 19,501 square feet in size. Lot 2 (1852 East) would have a street frontage of 68.7 feet and be approximately 12,004 square feet in size. Lot 3 (new lot) designed similar to a flag lot would have a street frontage of 24 feet and be approximately 12,176 square feet in size. The street frontage for lot 3 would be a shared access easement for all three properties, allowing drive access to lot 3 as well as drive access to off-street parking for lots 1 and 2. Each of the three lots would maintain a minimum lot size of at least 12,000 square feet, as required by the R-1/12,000 zoning district.

There are existing single-family homes and detached garages on each of the subject properties and those houses and garages will remain. On both properties, the houses are set towards the front of the property with most of the total lot area being located to the rear of the houses. While no formal plans for the home on Lot 3 have been submitted, in the provided narrative, the applicant describes their vision of the home as follows:



The proposed single-family home on PD Lot 3 is appropriate in scale, mass and intensity with the neighborhood. The house orientation will face the North like the other homes, and have primary views to the North and East, including mountain views. The attached garage will face the access and utility staff, and will provide ample on-site, enclosed and covered parking. The single-family home will fit inside the buildable area on Lot 3. The primarily single-story home will have a partial two story bump up to catch the views but keep the massing to scale. The first floor will have all essential housing needs and be constructed at grade to enhance its accessibility for handicapped and wheelchair use.

When examining the properties along the south side of 2700 South, most follow the same pattern: Houses set to the front of the lot with the majority of the undeveloped property located behind. Because of this, the impact of introducing another single-family dwelling unit to the rear of the property is minimized due to the extended proximity to a home on any adjacent property.

The properties to the east and west are zoned R-1/12,000 and are single-family dwellings. The properties to the south are zoned R-1/12,000 and are also single-family dwellings. The properties to the north, across 2700 South, are zoned R-1/7,000 and contain a mix of single-family dwellings as well as legal-conforming duplexes.

The Planned Development is required due to the proposed decrease in lot widths. The applicant is

requesting relief from 21A.24.050.C, which requires that lots with single-family detached dwellings have a minimum lot width of 80 feet. While not complying with the requirement in 21A.24, the proposed Planned Development is compatible with the existing development in the neighborhood and the goals of the adopted master plans that are applicable to the area. These issues are discussed in the following section.

## KEY ISSUES:

The key issues listed below have been identified through the analysis of the project, neighbor and community input and department review comments.

1. Reduced Lot Width
2. Driveway Location and Parking
3. Single Family Home Design on Lot 3
4. Compliance with Citywide and Community Master Plans

### Issue 1: Reduced Lot Width

The applicant is requesting a modification of section 21A.24.050.C of the zoning ordinance that requires lots in the R-1/12,000 zone with single-family detached dwellings to have a minimum lot width of 80 feet. The proposed



lot widths are 67.3 feet (Lot 1) and 68.7 feet (Lot 2) and 24 feet (Lot 3). While the proposal doesn't meet current lot width standards; visually, there will be little modification to the current properties. The 1844 East property currently has a driveway and drive entrance that runs down the east side of the property. This driveway will be widened and utilized as the shared access for all three properties but will be the only proposed modification along the front portion of the properties. The majority of modification will occur to the rear of the property, behind the house on 1852 East, which will help in maintaining the existing visual appeal of single-family homes along the frontage of 2700 South.

### **Issue 2: Driveway Location and Parking:**

Single-family detached dwellings are required to have two off-street parking spaces per table 21A.44.030 *Schedule of Minimum Off-Street Parking Requirements*. As discussed in Issue 1, the proposal would utilize the existing driveway and drive entrance, only modifying the width. By utilizing the current layout of the properties, it will minimize the visual disturbance as seen from 2700 South in order to maintain the same neighborhood character. The driveway will serve as access to the existing off-street parking for Lots 1 and 2. It is proposed that Lot 3 will also have off-street parking by way of an attached garage. Off-street parking is being proposed for all three lots.

### **Issue 3: Single Family Home Design on Lot 3:**

Official development plans for the proposed house on Lot 3 have not been submitted at this time, but the provided narrative discusses the proposed design of the home, stating it will meet all R-1/12,000 zoning requirements including setbacks, height, and lot coverage. In addition to meeting all zoning standards, a condition of approval requires the dwelling on Lot 3 to also adhere to the Front Façade Controls in section 21A.24.01o.I:

*Front Façade Controls: To maintain architectural harmony and primary orientation along the street, all buildings shall be required to include an entrance door, and such other features as windows, balconies, porches, and other such architectural features in the front façade of the building, totaling not less than ten percent (10%) of the front façade elevation area, excluding any area used for roof structures. For buildings constructed on a corner lot, only one front façade is required in either the front or corner side façade of the building.*

The intent of the R-1/12,000 zoning standards is to promote uses and architectural design that are compatible with the existing neighborhood character and development pattern. To respect the development pattern of the block face and neighborhood, staff has recommended a condition that the future dwelling be built using quality primary materials such as brick or stone, and accent materials such as Hardie board siding or stucco, which is consistent with the surrounding homes. The applicant described the proposed building materials as *stucco, fiber cement siding, and glass, with brick or stone accents* in the project narrative and staff believes they are consistent with the existing architectural character of the neighborhood.

### **Issue 4: Compliance with Citywide and Community Master Plans:**

#### **Sugar House Master Plan (2005)**

This development is located within the *Sugar House Master Plan* area. The purpose of the Sugar House Community Master Plan is to present a comprehensive plan that guides the future development of Sugar House. The Plan recognizes the need for housing and acknowledges that the Sugar House Community is mainly developed and any significant increase in the number of housing units will be the result of redevelopment of land in multi-family zoning districts, or the new development of residential units in the Sugar House Business District; however, it does discuss the potential to increase housing opportunities through the utilization of infill development where appropriate. One such infill technique recognized by the Plan would be through Flag Lot development.

The Plan suggests that Flag Lot development could be a suitable means to increase housing stock on properties in areas where lots are narrow and deep. The proposed Planned Development is similar in form and function to a Flag Lot; therefore, these principles would be relevant in nature. The Plan raises concern over this type of development and how they may adversely affect the overall character of well-established neighborhoods. It describes how privacy and open space that was originally enjoyed by the neighboring residents is lost and the size, height and style of a new structure could also have a significant impact on the neighborhood character. As a counter to the potential adverse effects this type of development may bring, the Plan points out that maintenance of long deep lots can be problematic for some property owners and



the ability to subdivide the property and better utilize the otherwise unmaintained area could be viewed as a positive solution. It becomes a balancing act of how to better utilize property while minimizing the impact to surrounding properties. Methods of creating balance is by finding positive ways to replace those things that may be lost when introducing this type of development. Maintaining as much open space as possible, keeping mature trees for added privacy and designing a home that incorporates well with other homes in the area are all ways to reduce concerns raised by this type of development. The applicants have proposed to preserve the mature fruit trees on the property for added privacy as well as including a defined buildable area on the proposed plat in order to maintain open space. They have also expressed the desire to build a home that is cohesive in design to those existing homes in the area.

### **Citywide Housing Master Plan – Growing SLC (2018-2022)**

The City recently adopted a citywide housing master plan titled *Growing SLC: A Five Year Housing Plan 2018-2022* that focuses on ways the City can meet its housing needs in the next five years. The plan includes policies that relate to this development, including:

**Objective 1:** Review and modify land-use and zoning regulations to reflect the affordability needs of a growing, pioneering city

- *Increasing flexibility around dimensional requirements and code definitions will reduce barriers to housing construction that are unnecessary for achieving city goals, such as neighborhood preservation.*
- *1.1.2 Develop in-fill ordinances that promote a diverse housing stock, increase housing options, create redevelopment opportunities, and allow additional units within existing structures, while minimizing neighborhood impacts.*

**Objective 6:** Increase home ownership opportunities

The planned development process is a zoning tool that provides flexibility in the zoning standards and a way to provide infill development that would normally not be allowed through strict application of the zoning code. The Planned Development process allows for an increase in housing stock and housing options and provides a way to minimize neighborhood impacts through its compatibility standards. The proposed development is utilizing this process to provide infill development on an underutilized lot and add additional housing ownership options in the City to help meet overall housing needs.

### **Plan Salt Lake (2015)**

The City has an adopted citywide master plan that includes policies related to providing additional housing options. The plan includes policies related to growth and housing in Salt Lake City.

#### ***Growth:***

- *Locate new development in areas with existing infrastructure and amenities, such as transit and transportation corridors.*
- *Promote infill and redevelopment of underutilized land.*
- *Accommodate and promote an increase in the City's population.*

#### ***Housing:***

- *Access to a wide variety of housing types for all income levels throughout the City, providing the basic human need for safety and responding to changing demographics.*
- *Increase diversity of housing types for all income levels throughout the city.*
- *Increase the number of medium density housing types and options.*
- *Enable moderate density increases within existing neighborhoods where appropriate.*

**Staff Discussion:** The proposed development will provide infill housing that is compatible with the character and scale of the existing single-family neighborhood. Despite the narrower lot widths, the proposed lots will still meet the minimum lot size of 12,000 square feet required by the R-1/12,000 zoning district. The preservation of existing housing stock is referenced through the neighborhood and citywide plans. The proposal adds growth in a pedestrian friendly area with existing infrastructure and services. Two bus routes located on 2700 South are within walking distance (less than 100 feet) providing access to public transit. The lot characteristics of this neighborhood present a good opportunity for infill housing due to the overside nature of the lots. Most lots in this neighborhood already exceed the maximum lot size of the R-1/12,000 zoning district and could support infill development of this nature. The proposed development helps to meet the growth and housing goals of the City's Master Plans and aligns with the development expectations of the neighborhood.

## **DISCUSSION:**

The proposal generally meets the Planned Development standards ([Attachment F](#)), complying with the development expectations articulated in the *Sugar House Master Plan* for the area. Additionally, the proposal complies with the subdivision standards to divide the property into three individual lots as noted in [Attachment G](#).

As the applicant is generally meeting applicable standards and guidelines for the associated reviews, staff is recommending approval of the proposed development with the suggested conditions noted on the second page of this staff report.

## **NEXT STEPS:**

### **APPROVAL**

#### **Planned Development and Subdivision**

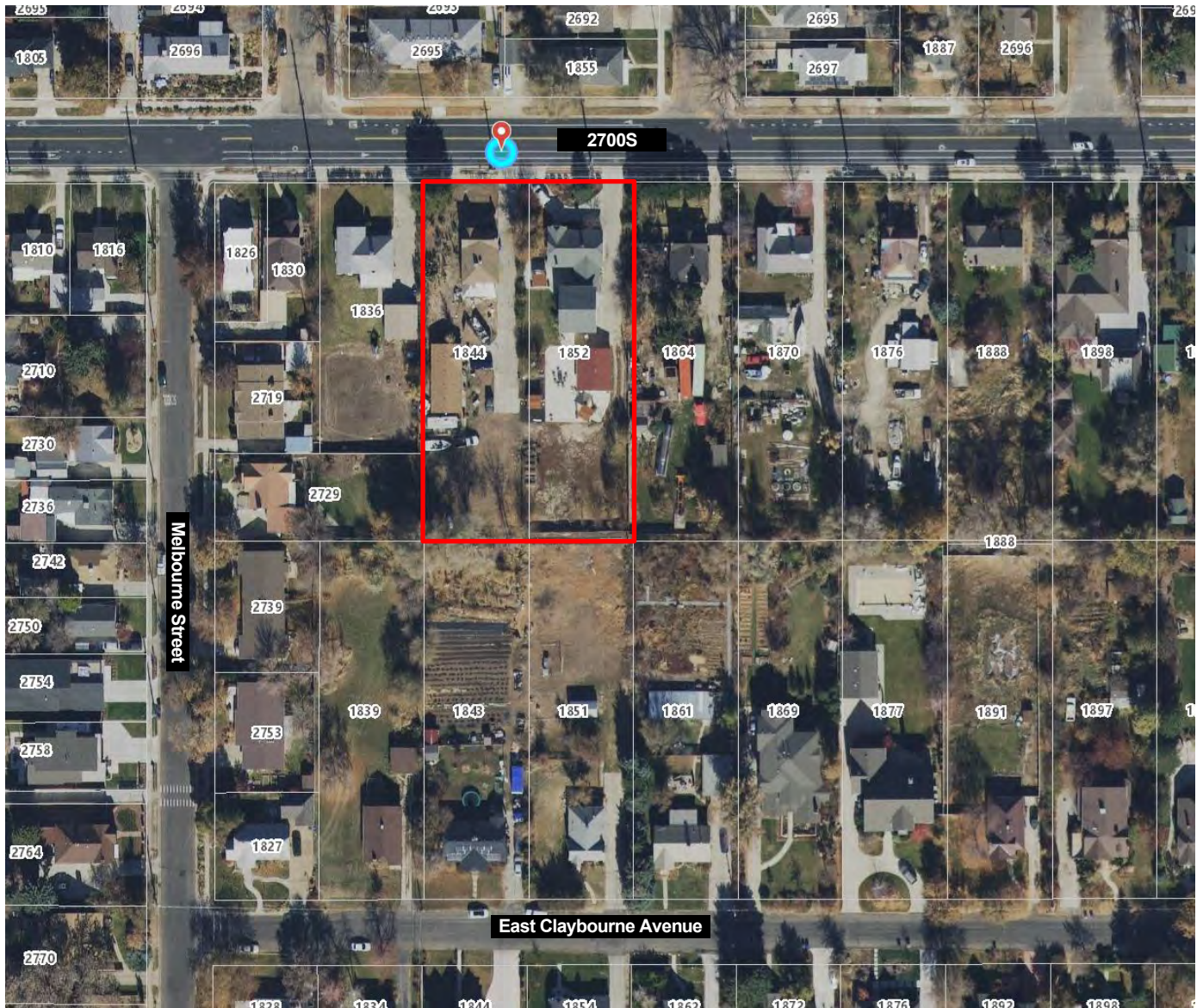
If the proposal is approved, the applicant will need to comply with the conditions of approval, including any of the conditions required by City departments and the Planning Commission. The applicant will be able to submit building permit plans for the development of Lot 3, which will be required to meet any conditions of approval. Final certificates of occupancy for the buildings will only be issued once all conditions of approval are met. The applicant will also need to submit a final plat.

### **DENIAL**

#### **Planned Development and Subdivision**

If the Planned Development and Subdivision request is denied, the applicant would not be able to subdivide the property into two lots because the lot width is less than 80 feet per lot.

## ATTACHMENT A: VICINITY MAP



Subject Properties



## ATTACHMENT B: SITE & VICINITY PHOTOS

---



*Property at 1852 E 2700 S*



*Property at 1844 E 2700 S*





*Neighboring property to the west*



*Neighboring property to the east*





*View of 2700 South looking east*



*View of 2700 South looking west*





*View of existing driveway looking towards the rear of the property*



*View of existing driveway looking towards 2700 South*





*View of the proposed location for Lot 3*



*View of the proposed location for Lot 3*



## **ATTACHMENT C: APPLICANT SUBMITTAL**

---

## **ATTACHMENT D: EXISTING CONDITIONS**

---

### **Zoning and Uses in the Immediate Vicinity of the Property**

**East:** (R-1/12,000), Single-Family dwellings

**West:** (R-1/12,000 and R-1/7,000), Single-Family dwellings

**North:** (R-1/7,000), Single-Family dwellings and legal-conforming duplexes

**South:** (R-1/12,000), Single-Family dwellings

## ATTACHMENT E: R-1/12,000 ZONE STANDARDS SUMMARY

### 21A.24.050: R-1/12,000 Single-Family Residential:

A. Purpose Statement: The purpose of the R-1/12,000 Single-Family Residential District is to provide for conventional single-family residential neighborhoods with lots twelve thousand (12,000) square feet in size or larger. This district is appropriate in areas of the City as identified in the applicable community Master Plan. Uses are intended to be compatible with the existing scale and intensity of the neighborhood. The standards for the district are intended to provide for safe and comfortable places to live and play, promote sustainable and compatible development patterns and to preserve the existing character of the neighborhood.

Standard	Proposed	Finding
<b>Minimum lot area:</b> 12,000 sq. ft.	Lot 1: 19,501 sf* Lot 2: 12,004 sf Lot 3: 12,176 sf  <i>*Lot 1 exceeds the 18,000 sf maximum lot size allowed in the R-1/12,000 zone.</i>	Complies
<b>Minimum lot width:</b> 80 ft.	Lot 1: 67.3 feet Lot 2: 68.7 feet Lot 3: 24 feet	Does not comply. Applicants are seeking a Planned Development for modified lot width.
<b>Maximum Height:</b> Varies depending on roof type:  Pitched – 28 feet measured to ridge of the roof;  or  Flat – 20 feet	The future single-family home on Lot 3 must comply with requirements of the R-1/12,000 zoning district at time of building permit issuance.	Lot 1: Complies  Lot 2: Complies  Lot 3: Will comply with the R- 1/12,000 building height standards upon building permit approval. No height modifications were requested.
<b>Maximum Exterior Wall Height:</b> 20 feet adjacent to interior side yards. Minus 1 foot (or fraction thereof) for each foot (or fraction thereof) of increased setback beyond the minimum required interior yard.	The future single-family home on Lot 3 must comply with requirements of the R-1/12,000 zoning district at time of building permit issuance.	Lot 1: Complies  Lot 2: Complies  Lot 3: Will comply with the R- 1/12,000 building height standards upon building permit approval. No height modifications were requested.
<b>Minimum Front Yard Requirement:</b> The minimum depth of the front yard for all principal buildings shall be equal to the average of the front yards of existing buildings within the block face. Where	No modifications to the front yard setbacks will occur on Lots 1 and 2.  The preliminary plat defines a buildable area for Lot 3. Lot 3 will have a front yard	Lot 1: Complies  Lot 2: Complies  Lot 3: Complies

there are no existing buildings within the block face, the minimum depth shall be twenty feet (20').	setback of 30 feet from the main body of the lot.	
<b>Minimum Interior Side Yard Requirement:</b> 8 feet on one side and 10 feet on the other	<p>Lot 1: The proposed interior side yard setbacks for the existing single- family home are 8 feet on one side (east) and approximately 34 on the other (west).</p> <p>Lot 2: The proposed interior side yard setbacks for the existing single- family home are 20.4 feet on one side (east) and approximately 8 on the other (west).</p> <p>Lot 3: The preliminary plat defines a buildable area for Lot 3. Lot 3 will have side yard setbacks of 12 feet (east) and 10 feet (west) from the main body of the lot.</p>	<p>Lot 1: Complies</p> <p>Lot 2: Complies</p> <p>Lot 3: Complies</p>
<b>Rear Yard:</b> 25 ft.	<p>Lot 1: 186 ft</p> <p>Lot 2: 63 ft</p> <p>Lot 3: The preliminary plat defines a buildable area for Lot 3. Lot 3 will have a rear yard setback of 25 ft</p>	<p>Lot 1: Complies</p> <p>Lot 2: Complies</p> <p>Lot 3: Complies</p>
<b>Accessory Buildings and Structures In Yards:</b> Accessory buildings and structures may be located in a required yard subject to section 21A.36.020, table 21A.36.020B of this title.	No new accessory structures are proposed as part of the Planned Development. The existing detached garages on Lots 1 and 2 comply with the standards found in 21A.36.020.	Complies

# ATTACHMENT F: ANALYSIS OF PLANNED DEVELOPMENT STANDARDS

**21A.55.050: Standards for Planned Developments:** The Planning Commission may approve, approve with conditions, or deny a planned development based upon written findings of fact according to each of the following standards. It is the responsibility of the applicant to provide written and graphic evidence demonstrating compliance with the following standards:

Standard	Findings	Rationale
<p><b>A. Planned Development</b></p> <p><b>Objectives:</b> The planned development shall meet the purpose statement for a planned development (section <a href="#">21A.55.010</a> of this chapter) and will achieve at least one of the objectives stated in said section. To determine if a planned development objective has been achieved, the applicant shall demonstrate that at least one of the strategies associated with the objective are included in the proposed planned development. The applicant shall also demonstrate why modifications to the zoning regulations are necessary to meet the purpose statement for a planned development. The Planning Commission should consider the relationship between the proposed modifications to the zoning regulations and the purpose of a planned development and determine if the project will result in a more enhanced product than would be achievable through strict application of the land use regulations.</p> <p>The purpose of a Planned Development is to support efficient use of land and resources and to allow flexibility about the specific zoning regulations that apply to a development, while still ensuring that the development complies with the purposes of the zone. As stated in the PD purpose statement, developments should also incorporate characteristics that help achieve City goals.</p>	Complies	<p>The applicant has provided a project narrative stating that their proposal meets objective F Master Plan Implementation: A project that helps implement portions of an adopted Master Plan in instances where the Master Plan provides specific guidance on the character of the immediate vicinity of the proposal:</p> <ol style="list-style-type: none"> <li>1. A project that is consistent with the guidance of the Master Plan related to building scale, building orientation, site layout, or other similar character defining features.</li> </ol> <p>The applicant's project narrative states that the proposal supports guiding principles in Plan Salt Lake and GrowingSLC related to aging in place, redevelopment of underutilized land, appropriate growth, and housing.</p> <p>Maintaining neighborhood stability and character, supporting neighborhoods and districts in carrying out the City's collective vision, creating a safe and convenient place for people to carry out their daily lives, and supporting neighborhood identity and diversity.</p> <p>The proposal also meets objective B: Historic Preservation.</p> <ol style="list-style-type: none"> <li>1. Preservation, restoration, or adaptive reuse of buildings or structures that contribute to the character of the City either architecturally and/or historically, and that contribute to the general welfare of the residents of the City.</li> <li>2. Preservation of, or enhancement to, historically significant landscapes that contribute to the character of the City and contribute to the general welfare of the City's residents.</li> </ol> <p>Staff Review: The proposal respects the scale and development pattern of the low-density residential neighborhood. The proposal adds additional housing through infill development as supported in the Sugar House Master Plan.</p> <p>While the property is not located within a local historic district, the retention of the existing single-family home contributes to the architectural and historic character of the neighborhood and preserves existing housing</p>

		stock, which are both Plan Salt Lake initiatives and goals of the Sugar House Master Plan.
<b>B. Master Plan Compatibility:</b> The proposed planned development is generally consistent with adopted policies set forth in the Citywide, community, and/or small area Master Plan that is applicable to the site where the planned development will be located.	Complies	As discussed in Issue 1, staff finds that the proposal is consistent with adopted policies in <i>Plan Salt Lake</i> , <i>GrowingSLC</i> and the <i>Sugar House Master Plan</i> as discussed earlier in this report as Issue 3. Guiding principles for appropriate infill development and increasing housing options found within these plans support this type of proposal.
<b>C. Design and Compatibility:</b> The proposed planned development is compatible with the area the planned development will be located and is designed to achieve a more enhanced product than would be achievable through strict application of land use regulations. In determining design and compatibility, the Planning Commission should consider: <ol style="list-style-type: none"> <li>1. Whether the scale, mass, and intensity of the proposed planned development is compatible with the area the planned development will be located and/or policies stated in an applicable Master Plan related to building and site design;</li> <li>2. Whether the building orientation and building materials in the proposed planned development are compatible with the neighborhood where the planned development will be located and/or the policies stated in an applicable Master Plan related to building and site design;</li> <li>3. Whether building setbacks along the perimeter of the development: <ol style="list-style-type: none"> <li>a. Maintain the visual character of the neighborhood or the character described in the applicable Master Plan.</li> <li>b. Provide sufficient space for private amenities.</li> <li>c. Provide sufficient open space buffering between the proposed development and neighboring properties to minimize impacts related to privacy and noise.</li> <li>d. Provide adequate sight lines to street, driveways and sidewalks.</li> </ol> </li> </ol>	Complies	<p>The proposal is generally compatible with the scale and density of the surrounding area. The acreage of the proposed lots are compatible with the block face and overall neighborhood.</p> <ol style="list-style-type: none"> <li>1. The scale, mass and intensity of the proposed development is compatible with the existing neighborhood, which contains a mix of single-family homes and duplexes. Lots 1 &amp; 2 will retain the single-family homes and the future single-family home on Lot 3 will meet the established lot and bulk standards of the R-1/12,000 zone. The future home on Lot 3 is proposed to keep in character and design of other single-family homes found in the area. The Sugar House Master Plan future land use map designates the property and surrounding neighborhood as very low density residential with lots ranging between 7,000 to 12,000 square feet (0-5 dwelling units/acre). The proposal would maintain lot sizes that exceed 12,000 square feet as required by the R-1/12,000 zoning district. The proposal supports the plan's vision of creating livable communities and neighborhoods by maintaining land use patterns that are compatible with the characteristics of the established neighborhood.</li> <li>2. The existing homes on Lots 1 &amp; 2 will remain. The proposed home on Lot 3 will be oriented towards 2700 South. The applicant has proposed the intention of designing the home to fit the character of the neighborhood and incorporate finishes such as stucco, fiber cement siding, and glass, with brick or stone accents.</li> <li>3. The proposed plat map has a defined buildable area for Lot 3. This buildable area maintains or exceeds all required setbacks found in the R-/12,000 zoning district. This defined buildable area was intended to provide privacy and maintain open space where possible.</li> </ol>

<ul style="list-style-type: none"> <li>e. Provide sufficient space for maintenance.</li> <li>4. Whether building facades offer ground floor transparency, access, and architectural detailing to facilitate pedestrian interest and interaction;</li> <li>5. Whether lighting is designed for safety and visual interest while minimizing impacts on surrounding property;</li> <li>6. Whether dumpsters, loading docks and/or service areas are appropriately screened; and</li> <li>7. Whether parking areas are appropriately buffered from adjacent uses.</li> </ul>		<ul style="list-style-type: none"> <li>4. Condition #1 of this report requires that the proposed home on Lot 3 have quality primary exterior building materials such as brick and stone and accent materials such as Hardie board siding and stucco. Condition #2 of this report states that the proposed home on Lot 3 shall be subject to the requirements of 21A.24.010.I Front Façade Controls.</li> <li>5. All lighting will be required to meet any applicable zoning requirement for site lighting.</li> <li>6. This proposal does not incorporate dumpster, loading docks or service areas.</li> <li>7. Required off-street parking for Lots 1 &amp; 2 will be provided by existing detached garages found on each property, respectively. The home on Lot 3 is proposed to have an attached garage that will provide required off-street parking for Lot 3. All parking will be accessed via a shared access easement that runs between Lots 1 &amp; 2 and is accessed from 2700 South.</li> </ul>
<p><b>D. Landscaping:</b> The proposed planned development preserves, maintains or provides native landscaping where appropriate. In determining the landscaping for the proposed planned development, the Planning Commission should consider:</p> <ul style="list-style-type: none"> <li>1. Whether mature native trees located long the periphery of the property and along the street are preserved and maintained;</li> <li>2. Whether existing landscaping that provides additional buffering to the abutting properties is maintained and preserved;</li> <li>3. Whether proposed landscaping is designed to lessen potential impacts created by the proposed planned development; and</li> <li>4. Whether proposed landscaping is appropriate for the scale of the development.</li> </ul>	Complies	<ul style="list-style-type: none"> <li>1. Mature fruit trees to the East and South will remain to the extent possible as a buffer to surrounding homes.</li> <li>2. There is little existing landscaping to the rear of the subject properties; however, the provided narrative states that waterwise landscaping will be provided.</li> <li>3. There is no additional landscaping as part of the proposal to add additional buffering to adjacent properties.</li> <li>4. Landscaping on Lot 1 &amp; 2 will mainly be unaltered and is appropriate for the scale of the development. Landscaping on Lot 3 will meet all applicable landscaping requirements found within the zoning ordinance and will be appropriate for the scale of the development.</li> </ul>
<p><b>E. Mobility:</b> The proposed planned development supports City wide transportation goals and promotes safe and efficient circulation within the site and surrounding neighborhood. In determining mobility, the Planning Commission should consider:</p> <ul style="list-style-type: none"> <li>1. Whether drive access to local streets will negatively impact the</li> </ul>	Complies	<ul style="list-style-type: none"> <li>1. The drive entrance to 2700 South is existing and will not be altered. No additional drive entrances will be added as a part of this proposal. The existing driveway will be widened to the width of the existing drive entrance.</li> <li>2. The existing road width along 2700 South allows ample room for bicycle travel along both sides of 2700 South, which connects to the larger active and public transportation network. Bus</li> </ul>

<p>safety, purpose and character of the street;</p> <ol style="list-style-type: none"> <li>2. Whether the site design considers safe circulation for a range of transportation options including: <ol style="list-style-type: none"> <li>a. Safe and accommodating pedestrian environment and pedestrian oriented design;</li> <li>b. Bicycle facilities and connections where appropriate, and orientation to transit where available; and</li> <li>c. Minimizing conflicts between different transportation modes;</li> </ol> </li> <li>3. Whether the site design of the proposed development promotes or enables access to adjacent uses and amenities;</li> <li>4. Whether the proposed design provides adequate emergency vehicle access; and</li> <li>5. Whether loading access and service areas are adequate for the site and minimize impacts to the surrounding area and public rights-of-way.</li> </ol>		<p>routes are available along 2700 South and can be accessed by bike or by foot.</p> <p>The existing sidewalk on either side of the tree-lined street provides walkability throughout the neighborhood and provides access to nearby commercial nodes.</p> <ol style="list-style-type: none"> <li>3. The layout of the proposal includes direct access to the public sidewalk to access nearby adjacent uses and amenities. The corner of 2700 South and 2000 East is zoned CB – Community Business District and houses a variety of small-scale neighborhood businesses such as restaurants and other amenities.</li> <li>4. Emergency vehicles will continue to use 2700 South for access. An emergency vehicle access and turnaround has been provided on the proposed preliminary plat.</li> <li>5. Loading access or service areas are not part of this proposal.</li> </ol>
<p><b>F. Existing Site Features:</b> The proposed planned development preserves natural and built features that significantly contribute to the character of the neighborhood and/or environment.</p>	Complies	<p>The subject properties are not located in a historic district, but the proposal will retain the existing homes that were built in 1930s. Landscaping and mature trees will be preserved to the extent possible.</p> <p>The importance of retaining existing housing is referenced across various city and neighborhood plans. Preserving the housing stock helps to maintain neighborhood stability and character and encourages infill development.</p>
<p><b>G. Utilities:</b> Existing and/or planned utilities will adequately serve the development and not have a detrimental effect on the surrounding area.</p>	Complies	<p>The proposal will need to comply with all requirements from other divisions and departments.</p>



# ATTACHMENT G: ANALYSIS OF PRELIMINARY PLAT STANDARDS

---

## STANDARDS OF APPROVAL FOR PRELIMINARY SUBDIVISION PLATS

**20.16.100:** All preliminary plats for subdivisions and subdivision amendments shall meet the following standards:

Criteria	Finding	Rationale
<b>A.</b> The subdivision complies with the general design standards and requirements for subdivisions as established in Section 20.12	<b>Complies</b>	The subdivision generally complies with all applicable standards.
<b>B.</b> All buildable lots comply with all applicable zoning standards;	<b>Complies, if the modification to lot widths are approved through the Planned Development</b>	<p>The proposal does not comply with the lot width requirement of 80 feet per lot.</p> <p>The applicant is requesting Planned Development approval for the modification.</p>
<b>C.</b> All necessary and required dedications are made;	<b>Complies</b>	No dedications of property are required for this development.
<b>D.</b> Water supply and sewage disposal shall be satisfactory to the Public Utilities Department director;	<b>Complies</b>	The Public Utilities Department has reviewed and approved the proposal. Prior to receiving a building permit, all applicable standards will need to be met.
<b>E.</b> Provisions for the construction of any required public improvements, per section 20.40.010, are included;	<b>Complies</b>	The proposal was reviewed by the Engineering Department. No public improvements were identified.
<b>F.</b> The subdivision otherwise complies with all applicable laws and regulations.	<b>Complies</b>	The proposal complies with all other applicable laws and regulations, except where modified through the Planned Development.
<b>G.</b> If the proposal is an amendment to an existing subdivision and involves vacating a street, right-of-way, or easement, the amendment does not materially injure the public or any person who owns land within the subdivision or immediately adjacent to it and there is good cause for the amendment.	<b>Not applicable</b>	The proposal does not involve vacating a street, right of way, or easement and does not materially injure the public or any one person.

## **ATTACHMENT H: Public Process and Comments**

---

### **Public Notice, Meetings, Comments**

The following is a list of public meetings that have been held, and other public input opportunities, related to the proposed project:

- Notice of the project and request for comments sent to the Chair of the Sugar House Community Council on March 2, 2021.
- Staff sent an early notification announcement of the project to all residents and property owners located within 300 feet of the project site on March 2, 2021 providing notice about the project and information on how to give public input on the project.
- The Sugar House CC invited staff and the applicant to attend their March 15<sup>th</sup> meeting where the applicant discussed their proposal. Staff was on hand to discuss any planning related questions. The intent of the proposal was discussed.

#### **Notice of the public hearing for the proposal included:**

- Public hearing notice mailed on May 27, 2021
- Public hearing notice sign posted on property: May 27, 2021
- Public notice posted on City and State websites and Planning Division list serve: May 27, 2021

#### **Public Input:**

- At the time of this publication, staff has received two public comments. Both comments were in opposition of the proposal.
- At the time of this publication, staff has received comments provided by Judi Short, Vice Chair, Sugar House Community Council. Those comments are attached below.
- Any additional comments received after the publication of the staff report will be forwarded to the Planning Commission.

## **ATTACHMENT I: Department Comments**

---

### **Fire** (Doug Bateman at [douglas.bateman@slcgov.com](mailto:douglas.bateman@slcgov.com))

\*Verification that a fire hydrant is located within 600-feet of all ground level exterior portions of buildings on parcels. Measurements are made following the drive route; and in straight lines and right angles.

\*Turn areas for the emergency vehicle turn a round are to be increased to 80-feet to accommodate SLC Fire apparatus.

\*Access roads shall be able to withstand impacted loads of 80,000 pounds

### **Engineering** (Scott Weiler at [scott.weiler@slcgov.com](mailto:scott.weiler@slcgov.com))

Plat redlines provided. They should also be required to obtain a new address certificate.

### **Transportation** (Michael Barry at [michael.barry@slcgov.com](mailto:michael.barry@slcgov.com))

There are no objections from Transportation.

### **Public Utilities** (Kristeen Beitel at [Knaphus.beitel@slcgov.com](mailto:Knaphus.beitel@slcgov.com))

Public Utilities has no issues with the Planned Development. Please see comments provided on PLNSUB2021-00111 - Harvath PD Preliminary Plat for comments specific to the plat and design comments to aid in the building permit process.

### **Building** (Tim Burke at [timothy.burke@slcgov.com](mailto:timothy.burke@slcgov.com))

No comment provided.

### **Zoning** (Anika Stonick at [patriciaanika.stonick@slcgov.com](mailto:patriciaanika.stonick@slcgov.com))

No comment provided.

## **ATTACHMENT G: AGENDA AND MAILING LIST FOR THE PLANNING COMMISSION HEARING**

---

**SALT LAKE CITY PLANNING COMMISSION MEETING AGENDA**  
**This meeting will be an electronic meeting held without an anchor location**  
**June 9, 2021 at 5:30 p.m.**  
**(The order of the items may change at the Commission's discretion)**

This Meeting will **not** have an anchor location at the City and County Building based on the following determination by the Planning Commission Chair:

*I, Chair of Planning Commission, hereby determine that conducting public meetings at an anchor location presents a substantial risk to the health and safety of those who may be present at the anchor location. Due to the Center for Disease Control and Prevention (CDC) social distancing requirements, I find that conducting a meeting at the anchor location constitutes a substantial risk to the health and safety of those who may be present at the location.*

Commission Members will connect remotely. We want to make sure everyone interested in the Planning Commission meetings can still access the meetings how they feel most comfortable. If you are interested in watching the Planning Commission meetings, they are available on the following platforms:

- YouTube: [www.youtube.com/slclivemeetings](http://www.youtube.com/slclivemeetings)
- SLCTv Channel 17 Live: [www.slctv.com/livestream/SLCtv-Live/2](http://www.slctv.com/livestream/SLCtv-Live/2)

If you are interested in participating during the Public Hearing portion of the meeting or provide general comments, email; [planning.comments@slcgov.com](mailto:planning.comments@slcgov.com) or connect with us on Webex at:

- <http://tiny.cc/slc-pc-06092021>

Instructions for using Webex will be provided on our website at [SLC.GOV/Planning](http://SLC.GOV/Planning)

**PLANNING COMMISSION MEETING WILL BEGIN AT 5:30 PM**  
**APPROVAL OF MINUTES FOR MAY 26, 2021**  
**REPORT OF THE CHAIR AND VICE CHAIR**  
**REPORT OF THE DIRECTOR**

**PUBLIC HEARINGS**

1. **Ice House Design Review at approximately 430 West 300 North** - The applicant, Amanda Risano with Kimley-Horn, representing the property owner, is requesting approval for Design Review to develop the property located at approximately 430 West 300 North. The proposal is to construct a new multi-family residential building. The proposed building will encompass 393 studio, one, and two-bedroom units. The applicant is requesting Design Review by the Planning Commission to allow for a building that exceeds the maximum street facing façade length, stucco that exceeds the maximum 10% of the facade material, a reduction in the percent of glazing on the ground floor, and a modification of the spacing of building entrances. The project is located within the TSA-UC-C (Transit Station Area Urban Center Transition) zoning district and within Council District 3, represented by Chris Warton. (Staff contact: Nannette Larsen at (385) 386-2761 or [nannette.larsen@slcgov.com](mailto:nannette.larsen@slcgov.com))  
**Case number PLNPCM2020-00986**

2. **Zoning Map Amendment at approximately 835 S Redwood Road & 1668 W Indiana Avenue** - Salt Lake City has received a request from property owner Khiem Tran requesting that the City amend the zoning map for two (2) properties located at 835 S Redwood Road and 1668 W Indiana Avenue respectively. The property at 1668 W Indiana currently contains an individual single-family dwelling while the other property is vacant. The applicant is requesting to change the zoning map designation of the property from R-1/5,000 (Single-Family Residential) to R-MU-45 (Residential/Mixed Use). No specific site development proposal has been submitted at this time. The change is consistent with changes identified in the Westside Master Plan which identified the intersection of Redwood and Indiana as the location of a future Community Node. The Master Plan is not being changed. The property is located within Council District 2, represented by Dennis Faris. (Staff contact: David J. Gellner at (385) 226-3860 or david.gellner@slcgov.com) **Case number PLNPCM2021-00249**
3. **Planned Development & Preliminary Plat at approximately 1844 & 1852 East 2700 South** - David and Barbara Harvath, property owners, are requesting Planned Development and Preliminary Plat approval to subdivide two lots at 1844 E 2700 S and 1852 E 2700 S and create a third lot in the rear portion of 1852 E 2700 S. The newly created lot would be created to facilitate a new single-family residence. The request would result in three lots that do not meet minimum lot width requirements but would meet the minimum lot size as required in the R-1/12,000 Single-Family Residential zoning district. The project is located in the R-1/12,000 (Single-Family Residential District) within Council District 7, represented by Amy Fowler. (Staff contact: Chris Earl at (385)-386-2760 or christopher.earl@slcgov.com)
  - a. **Planned Development:** The R-1/12,000 zoning district requires a minimum lot width of 80 feet. The proposed lot width for the lot located at 1844 E 2700 S would be 67.3 feet wide, the proposed lot width for the lot located at 1852 E 2700 S would be 68.7 feet wide and the proposed lot width for the newly created lot would be 24 feet wide. Planned Development approval is required due to the requested modified lot width for the new and existing lots. **Case number PLNPCM2020-00826**
  - b. **Preliminary Plat** - The proposal requires preliminary subdivision approval to modify the existing two lots to create an additional lot, three in total. This is normally an administrative process that can be approved by Planning staff, but because the application is tied to the Planned Development, the subdivision is being taken to the Planning Commission for joint approval. **Case number PLNSUB2021-00111**
4. **Lake Street ADU at approximately 927 S Lake Street** - Dave Brach, representing the property owner of 927 S. Lake Street, is requesting Conditional Use approval for an internal Accessory Dwelling Unit (ADU) located within the basement of a new single-family dwelling. The ADU will be approximately 1,170 square feet in size. The property is zoned R-1/5000, where ADUs must be processed as a conditional use. The subject property is located within Council District 5, represented by Darin Mano. (Staff Contact: Kelsey Lindquist at (385) 226-7227 or kelsey.lindquist@slcgov.com) **Case number PLNPCM2021-00192**
5. **Keane Unit Legalization at approximately 40, 42, & 44 West 500 North** - Ruairi Keane, property owner, is requesting a Special Exception to legalize an existing third unit in his building located at approximately 40 West, 42 West and 44 West 500 North. The property is located within the R-2 Zoning District and is located within Council District 3 represented by Chris Wharton. (Staff contact: Caitlyn Tubbs at (385) 315-8115 or caitlyn.tubbs@slcgov.com) **Case number PLNPCM2021-00030**

6. **Height & Grading Special Exceptions at approximately 1725 S Devonshire Drive** - Kim Coates, on behalf of the property owners, is requesting special exception approval to construct a new single-family detached structure that exceeds the maximum permitted building height and maximum allowable grade changes in the FR-2/21,780 Foothills Residential District. The subject property is located at 1725 S Devonshire Drive and is undeveloped. There is a 185 square foot section of the front facing elevation that will exceed the zones maximum height limit of 28 feet by 3 feet. The grade changes requiring approval to exceed 6 feet within the buildable area and 4 feet within the rear yard area are requested for a portion of the driveway and to create a backyard patio. The subject property is located within the FR-2/21,780 Foothills Residential and within Council District 6, represented by Dan Dugan. (Staff contact: Amanda Roman at (385) 386-2765 or amanda.roman@slcgov.com) **Case number PLNPCM2021-00238**
7. **Design Review at 150 S Main Street Apartments** - Dwell Design Studio on behalf of Hines Acquisitions, LLC has requested Design Review approval for the 150 S Main Street Apartments to be located at approximately 150 South Main Street on the site of the long vacant Utah Theatre. The combined 0.89-acre (39,000 square feet) parcel is owned by the Redevelopment Agency of Salt Lake City and is located in the D-1 – Central Business District. The proposed project is for a 400-unit mixed-use residential apartment building that will include a mid-block walkway/plaza and a park amenity on the top of the parking structure in the rear. A total of 8,400 square feet of retail space will be included at the ground floor, fronting on main street. The proposed 31-story building will be approximately 368-feet tall with an additional 24-feet included for rooftop mechanical equipment and elevator overruns. The total height of the building will be approximately 392 feet. Buildings in excess of 100-feet tall in the D-1 zoning district may be approved through the Design Review process with Planning Commission approval. In addition, the Design Review process is also being requested to allow the residential lobby entrance to be set back 10-feet from Main Street, in excess of the requirement of a maximum of 5-feet. The subject property is located within Council District 4, represented by Ana Valdemoros. (Staff contact: David J. Gellner at (385) 226-3860 or david.gellner@slcgov.com) **Case number PLNPCM2021-00024**

*For Planning Commission agendas, staff reports, and minutes, visit the Planning Division's website at [slc.gov/planning/public-meetings](http://slc.gov/planning/public-meetings). Staff Reports will be posted the Friday prior to the meeting and minutes will be posted two days after they are ratified, which usually occurs at the next regularly scheduled meeting of the Planning Commission.*

OWN_FULL_NAME	OWN_ADDR
PATRICIA A ROSS; LAURIE A ADAM (JT)	2695 S 1800 E
FRANCISCO B MONTANO; KARINA S MONTANO (JT)	1805 E 2700 S
CHELISE MONSON; DAVID MONSON	2686 S MELBOURNE ST
DAVID W BRAMBLE; KATRINA A BRAMBLE (JT)	3034 E 9800 S
VEARLA M. WARNER	2694 S MELBOURNE ST
ERIK PETERSON REVOCABLE TRUST 04/04/2018	1821 E 2700 S
TRUST NOT IDENTIFIED	528 W 5987 S
CRAIG D EATON; VANESSA G EATON (JT)	8953 S ROCKWELL DR
JASON K SORENSEN; GINA L SNOW (JT)	137 NIELD AVE
SUMMIT VALLEY PROPERTIES LLC	6362 S CLAY PARK DR
STEPHEN J OLSON; DEBORAH A OLSON (JT)	2736 S MELBOURNE ST
JIM HOPKINS	1027 E BELMONT AVE
ERIC LEROHL; VALERIE LEROHL (JT)	2750 S MELBOURNE ST
JENNIFER NEWMAN; PAMELA NIELSEN (JT)	2754 S MELBOURNE ST
STACY LYN BERNSTONE; TONY ARNOLD BERNSTONE (JT)	2758 S MELBOURNE ST
RODNEY L BROWN; SALLY BROWN (JT)	11470 S CANTON CT
GLENN. DANYA W & ROGER S; JT (JT)	2685 S MELBOURNE ST
A+ MARKET INVESTMENTS, LLC	2687 S MELBOURNE ST
TRUST NOT IDENTIFIED	2693 S MELBOURNE ST
2695 S MELBOURNE LLC	1576 E YALE AVE
STEPHEN N STEWART; AMANDA STEWART (JT)	2684 S WELLINGTON ST
THOMAS W BELNAP	2686 S WELLINGTON ST
LORI ANN T ROGERS	2688 S WELLINGTON ST
JUSTIN BROWN (JT)	2692 S WELLINGTON ST
WELLINGTON LIVING, LLC	6965 S UNION PARK CNTR
NICHOLAS M MONTELLA; MARC MONTELLA; CHRISTINA MONTELLA (JT)	2689 S WELLINGTON ST
JACKAL INVESTMENTS LLC	321 S 600 E
MICHAEL S HENRIKSEN; VANESSA T HENRIKSEN (JT)	2697 S WELLINGTON ST
CHARLENE D JOHNSON; BRENT R JOHNSON (JT)	2686 S 1900 E
LAWRENCE JR SOLIS	2690 S 1900 E
BENJAMIN P ROLLY; JENNIFER K BENEDICT (JT)	5451 E EL JARDIN ST
19TH EAST LLC	4131 E CANYON VIEW PL
MARK F ANNIS; HEATHER L H ANNIS (JT)	2683 S WELLINGTON ST
ED & MCM TRUST; A VON ANDERSON	66 E 750 N
LYUDMYLA STOKES	1925 E 3300 S
JKL TRUST	2600 E LOCKHART RD
JAMES STAPLES; AMY STAPLES (JT)	1836 E 2700 S
DAVID A HARVATH; BARBARA HARVATH (JT)	1844 E 2700 S
BARBARA HARVATH; DAVID HARVATH (JT)	1852 E 2700 S
KEVIN L DONAHUE	1864 E 2700 S
ROBERT A BERO	1870 E 2700 S
ROBERT A BERO	1876 E 2700 S
JENNIFER BENEDICT; BENJAMIN P ROLLY (JT)	1888 E 2700 S
JAMISON FEATHERSTONE	2729 S MELBOURNE ST
NELSON JAMES	2739 S MELBOURNE ST
MANUEL GALLEGOS; THERESA G GALLEGOS (JT)	2753 S MELBOURNE ST



[illegible]

1839 E CLAYBOURNE AVE  
1843 E CLAYBOURNE AVE  
2670 S 1900 E  
1869 E CLAYBOURNE AVE  
1877 E CLAYBOURNE AVE  
PO BOX 144575  
1891 E CLAYBOURNE AVE  
2184 E TURNBERRY AVE  
1827 E CLAYBOURNE AVE  
2764 S MELBOURNE ST  
440 E 100 S  
2688 S MELBOURNE ST  
2696 S MELBOURNE ST  
1810 E 2700 S  
1816 E 2700 S  
2710 S MELBOURNE ST  
2730 S MELBOURNE ST  
2742 S MELBOURNE ST  
2683 S MELBOURNE ST  
2695 S MELBOURNE ST  
1855 E 2700 S  
2695 S WELLINGTON ST  
1887 E 2700 S  
2696 S 1900 E  
2687 S WELLINGTON ST  
1826 E 2700 S  
1830 E 2700 S  
1851 E CLAYBOURNE AVE  
1861 E CLAYBOURNE AVE  
1888 E 2700 S  
2719 S MELBOURNE ST  
2762 S MELBOURNE ST

[illegible]

[illegible]

## **ATTACHMENT H: EARLY NOTIFICATION AND MAILING LIST**



## EARLY NOTIFICATION OF A PROJECT IN THE NEIGHORHOOD

### Planned Development and Preliminary Subdivision 1844 E 2700 S & 1852 E 2700 S March 2, 2021

#### SUMMARY OF THE PROPOSAL

Salt Lake City has received a request from David and Barbara Harvath, property owners, to subdivide two lots at 1844 E 2700 S and 1852 E 2700 S and create a third lot in the rear portion of 1852 E 2700 S. The newly created lot would facilitate a new single-family residence. The request would result in three lots that do not meet lot width requirements found in the R-1/12,000 Single-Family Residential zoning district. The R-1/12,000 zoning district requires a minimum lot width of 80 feet. The proposed lot width for the lot located at 1844 E 2700 S would be 67.3 feet wide, the proposed lot width for the lot located at 1852 E 2700 S would be 68.7 feet wide and the proposed lot width for the newly created lot would be 24 feet wide. Planned Development approval is required due to the requested modified lot width for the new lots. There may be other zoning-related items that arise during the application.



This type of development requires approval from the Planning Commission for a Planned Development before a building permit can be issued. A public hearing with the Planning Commission has not yet been scheduled. You will be notified of the public hearing at a later date. If the proposed Planned Development is approved, Preliminary Subdivision approval will also be required in order to create the proposed lots.

#### GOING FORWARD

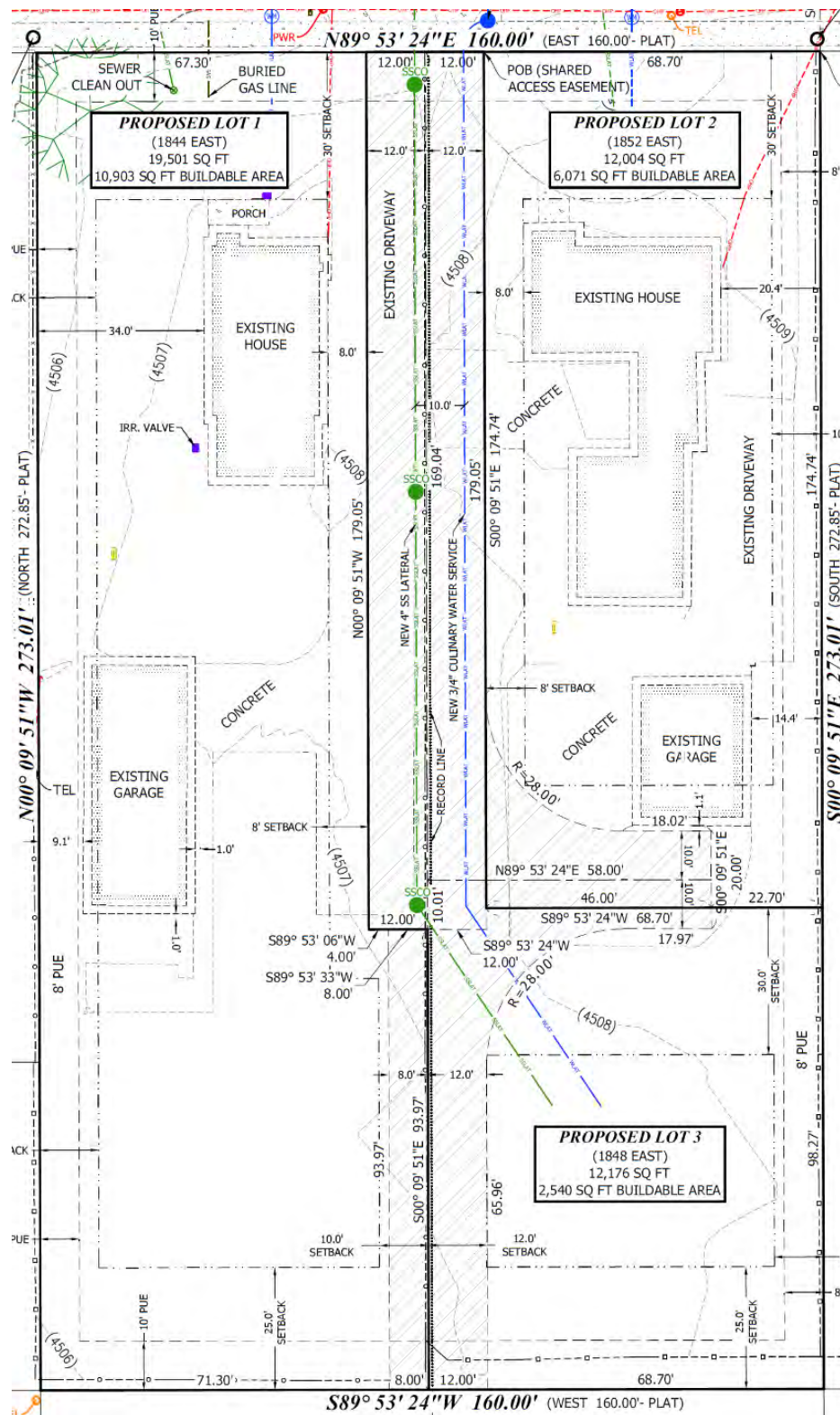
The purpose of this notice is to make you aware of the proposed Planned Development and Preliminary Subdivision and to let you know how you may obtain more information about and comment on the project early in the review process. For more information on the project go to SLC Citizen Access Portal: <https://citizenportal.slcgov.com> and go to "Planning Check or Research Petitions".

Additionally, notice of this application has been sent to the Sugar House Community Council Chair. The community council may choose to schedule the matter at an upcoming meeting. Please contact Landon Clark for more information on whether the community council will review

the matter and when and where that meeting will occur. The contact information for the community council chair is Minnesotaute76@gmail.com.

### CONTACT INFORMATION

If you would like additional information, please contact the project planner, Chris Earl at (385) 386-2760 or [christopher.earl@slcgov.com](mailto:christopher.earl@slcgov.com). (Case number PLNPCM2020-00826; PLNSUB2021-00111).



Preliminary Plat (cropped to fit)

OWN_FULL_NAME	OWN_ADDR
PATRICIA A ROSS; LAURIE A ADAM (JT)	2695 S 1800 E
FRANCISCO B MONTANO; KARINA S MONTANO (JT)	1805 E 2700 S
CHELISE MONSON; DAVID MONSON	2686 S MELBOURNE ST
DAVID W BRAMBLE; KATRINA A BRAMBLE (JT)	3034 E 9800 S
VEARLA M. WARNER	2694 S MELBOURNE ST
ERIK PETERSON REVOCABLE TRUST 04/04/2018	1821 E 2700 S
TRUST NOT IDENTIFIED	528 W 5987 S
CRAIG D EATON; VANESSA G EATON (JT)	8953 S ROCKWELL DR
JASON K SORENSEN; GINA L SNOW (JT)	137 NIELD AVE
SUMMIT VALLEY PROPERTIES LLC	6362 S CLAY PARK DR
STEPHEN J OLSON; DEBORAH A OLSON (JT)	2736 S MELBOURNE ST
JIM HOPKINS	1027 E BELMONT AVE
ERIC LEROHL; VALERIE LEROHL (JT)	2750 S MELBOURNE ST
JENNIFER NEWMAN; PAMELA NIELSEN (JT)	2754 S MELBOURNE ST
STACY LYN BERNSTONE; TONY ARNOLD BERNSTONE (JT)	2758 S MELBOURNE ST
RODNEY L BROWN; SALLY BROWN (JT)	11470 S CANTON CT
GLENN. DANYA W & ROGER S; JT (JT)	2685 S MELBOURNE ST
A+ MARKET INVESTMENTS, LLC	2687 S MELBOURNE ST
TRUST NOT IDENTIFIED	2693 S MELBOURNE ST
2695 S MELBOURNE LLC	1576 E YALE AVE
STEPHEN N STEWART; AMANDA STEWART (JT)	2684 S WELLINGTON ST
THOMAS W BELNAP	2686 S WELLINGTON ST
LORI ANN T ROGERS	2688 S WELLINGTON ST
JUSTIN BROWN (JT)	2692 S WELLINGTON ST
WELLINGTON LIVING, LLC	6965 S UNION PARK CNTR
NICHOLAS M MONTELLA; MARC MONTELLA; CHRISTINA MONTELLA (JT)	2689 S WELLINGTON ST
JACKAL INVESTMENTS LLC	321 S 600 E
MICHAEL S HENRIKSEN; VANESSA T HENRIKSEN (JT)	2697 S WELLINGTON ST
CHARLENE D JOHNSON; BRENT R JOHNSON (JT)	2686 S 1900 E
LAWRENCE JR SOLIS	2690 S 1900 E
BENJAMIN P ROLLY; JENNIFER K BENEDICT (JT)	5451 E EL JARDIN ST
19TH EAST LLC	4131 E CANYON VIEW PL
MARK F ANNIS; HEATHER L H ANNIS (JT)	2683 S WELLINGTON ST
ED & MCM TRUST; A VON ANDERSON	66 E 750 N
LYUDMYLA STOKES	1925 E 3300 S
JKL TRUST	2600 E LOCKHART RD
JAMES STAPLES; AMY STAPLES (JT)	1836 E 2700 S
DAVID A HARVATH; BARBARA HARVATH (JT)	1844 E 2700 S
BARBARA HARVATH; DAVID HARVATH (JT)	1852 E 2700 S
KEVIN L DONAHUE	1864 E 2700 S
ROBERT A BERO	1870 E 2700 S
ROBERT A BERO	1876 E 2700 S
JENNIFER BENEDICT; BENJAMIN P ROLLY (JT)	1888 E 2700 S
JAMISON FEATHERSTONE	2729 S MELBOURNE ST
NELSON JAMES	2739 S MELBOURNE ST
MANUEL GALLEGOS; THERESA G GALLEGOS (JT)	2753 S MELBOURNE ST

[illegible]

1839 E CLAYBOURNE AVE  
1843 E CLAYBOURNE AVE  
2670 S 1900 E  
1869 E CLAYBOURNE AVE  
1877 E CLAYBOURNE AVE  
PO BOX 144575  
1891 E CLAYBOURNE AVE  
2184 E TURNBERRY AVE  
1827 E CLAYBOURNE AVE  
2764 S MELBOURNE ST  
440 E 100 S  
2688 S MELBOURNE ST  
2696 S MELBOURNE ST  
1810 E 2700 S  
1816 E 2700 S  
2710 S MELBOURNE ST  
2730 S MELBOURNE ST  
2742 S MELBOURNE ST  
2683 S MELBOURNE ST  
2695 S MELBOURNE ST  
1855 E 2700 S  
2695 S WELLINGTON ST  
1887 E 2700 S  
2696 S 1900 E  
2687 S WELLINGTON ST  
1826 E 2700 S  
1830 E 2700 S  
1851 E CLAYBOURNE AVE  
1861 E CLAYBOURNE AVE  
1888 E 2700 S  
2719 S MELBOURNE ST  
2762 S MELBOURNE ST



[illegible]

[illegible]

# **ATTACHMENT I: HARVATH FAMILY OPPOSITION TO THE APPEAL**

---

**HARVATH'S OPPOSITION TO THE APPEAL OF KEVIN DONAHUE AND  
REQUEST THAT THE HEARING OFFICER UPHOLD THE DECISION OF THE  
PLANNING COMMISSION GRANTING APPROVAL OF THE PLANNED  
DEVELOPMENT AND THE PRELIMINARY PLAT**

**RE: APPEAL OF PLANNING COMMISSION APPROVAL OF THE HARVATHS' PLANNED DEVELOPMENT &  
PRELIMINARY PLAT AT 1844 AND 1852 EAST 2700 SOUTH, SALT LAKE CITY, UTAH**

**PLANNING COMMISSION PUBLIC HEARING DATE: June 9, 2021**

**CASE NUMBER: PLNAPP2021-00696**

**APPEAL HEARING DATE: August 12, 2021, 3:00 p.m.**

**INTRODUCTION:**

My name is Victoria Hales, and I represent Barbara and David Harvath, the original applicants who requested approval of a Planned Development on their neighboring properties at 1844 and 1852 East 2700 South in Salt Lake City, Utah. The Harvaths' Planned Development request was granted by the Planning Commission. Now, the Harvaths' neighbor, Kevin Donahue (Donahue), has appealed the decision.

The Harvaths request that the decision of the Planning Commission be upheld. The decision was supported by substantial evidence, the same evidence that is before this appeal body.

**BURDEN OF PROOF:**

Donahue, who filed the appeal, has the burden of proof. City Ord. 21A.16.030.F. In this case, Mr. Donahue must prove that the Harvath PD application should have been denied, because it was not supported by substantial evidence. He has not presented evidence to support that conclusion.

**STANDARD OF REVIEW FOR AN APPEAL OF AN ADMINISTRATIVE LAND USE DECISION BY THE  
PLANNING COMMISSION:**

Pursuant to Salt Lake City ordinances, the Appeal Hearing Officer is the appeal authority in this case. City Ord. 21A.55.070 & 21A.16.020; Utah Code Ann. 10-9a-701. The Hearing Officer reviews the matter using applicable standards de novo. City Ord. 21A.16.030.E.1. All administrative decisions are reviewed using a substantial evidence standard upon a review of the record. *Wadsworth Construction v. West Jordan*, 2000 UT App 49 ¶16, 999 P.2d 1240 (Utah App 2000).

**BACKGROUND:**

For a bit of background, the Harvaths submitted a Planned Development (PD) application, unanimously approved by the Planning Commission. The PD created three lots where there currently are two lots. Barbara Harvath and David Harvath (brother and sister) own adjacent lots on 2700 South in Salt Lake City. The lots in Highland Acres were created in the 1920's, and are very large and very deep, but the

rear of the lots is underutilized. The properties at issue, 1844 and 1852 East 2700 South far exceed the required lot size in this R-1/12,000 zoning district. Each lot is approximately 0.5 acres (21,780 sq. ft.).

The Harvaths proposed three lots in the Planned Development, as allowed in the code, and each proposed lot met or exceeded the 12,000 sq. ft. lot size requirement. The applicable zone is single-family residential, R-1/12,000, and the PD lot sizes continue to comply with the zone. City Ord. 21A.22.010.

Mr. Donahue was unhappy with the decision Planning Commission decision which granted approval of the PD, because it has some impact on his lot to the east. He does not like the addition of one single-family house. However, he has not articulated a legal reason to overturn the decision of the Planning Commission. Its decision was supported by substantial evidence. Although Mr. Donahue can disagree with the conclusions reached by the commission, he has not shown any grounds for overturning the decision.

**THE EVIDENCE BEFORE THE HEARING REVIEW OFFICER SUBSTANTIALLY SUPPORTS UPHOLDING THE APPROVALS GRANTED BY THE PLANNING COMMISSION:**

The following information, documents and evidence are relevant to this appeal, and support the conclusion that the PD and preliminary plat approvals should be upheld:

1. This Opposition to the Appeal of Kevin Donahue;
2. Record of Decision for Petitions PLNPCM2020-00826 (Planned Development) and PLNSUB2021-00111 (Preliminary Plat) at 1844 E. 2700 South and 1852 E. 2700 South dated June 25, 2021;
3. Record of Planning Commission Agenda, Public Hearing Recordings and Minutes from the June 9, 2021, meeting, including the following links: <https://www.slc.gov/planning/planning-commission-agendas-minutes/> and <https://www.slc.gov/planning/public-meetings/planning-commission-agendas-minutes/>;
4. The YouTube recording of the Planning Commission meeting on June 09, 2021 (at minutes 56:27 to 1:32) at the following link: <https://www.youtube.com/watch?v=OZ2ZJgARaE0>;
5. All information and contents of the 54 page staff report prepared by Chris Earl, Principal Planner, for the Planning Commission meeting, including all photographs, maps, applicant submittals, summaries, comments and attachments;
6. The project applications and preliminary plat details provided by the Harvaths in support of the PD and the preliminary plat, including graphics, plat diagrams, easements and narratives.

**THE SALT LAKE CITY PLANNING COMMISSION PROPERLY INTERPRETED AND APPLIED CITY ORDINANCES:**

Salt Lake City ordinances support the conclusion that the PD was properly approved. PDs are “intended to encourage the efficient use of land and . . . incorporates special development characteristics that help to achieve City goals identified in adopted Master Plans . . .” City Ord. 21A.55.010. It has authority to change, alter, modify or waive zoning and subdivision regulations, like the one modification approved with this PD (the minimum front lot width). City Ord. 21A.55.020.A. The Harvaths submitted, and the Planning Commission accepted, the written justifications for the PD, with findings that the PD will achieve at least one of the objectives in the PD ordinance. This is all that is legally required under the code. Courts examine and apply the plain language of an ordinance with some deference to the

interpretation of the land use authority. *Fox v. Park City*, 2008 UT 85 ¶11. Administrative bodies have specialized knowledge in their field, and are charged with the responsibility of applying ordinances. They should be allowed latitude and a presumption of correctness in their interpretations. *Cottonwood Heights Citizens Ass'n v. Board of Commissioners*, 593 P.2d 138, 140 (Utah 1979).

Applying the plain language of the PD ordinance, the land use authority approved the specific modification to the zoning and subdivision regulation. This resulted in approval of the reduced front lot widths for the lots in the PD. This was the only variation requested as set forth in Attachments E, F and G of the Staff Report. The Planning Commission applied the City ordinances correctly.

#### **THE ACTIONS OF THE PLANNING COMMISSION ARE NOT VOID, BIASED OR ILLEGAL:**

Donahue argues that the Planning Commission decision is void or illegal due to claims of staff and commissioner bias, conflict of interest, failure to have a quorum present at the meeting, and other vague allegations. Under City ordinances, a quorum is defined as a "majority of members who have been appointed" to the body. City Ord. 2.07.140. Nine members make up the commission. City Ord 21A.06.030.D. "A simple majority of the voting members present at the meeting at which a quorum is present shall be required for any action taken." City Ord. 21A.06.030.F. At this particular Planning Commission meeting, six members were present, including Ms. Scheer, who was present but acted as chair, and did not vote, as is customary when the chair's vote isn't legally needed.

A record of the public meeting and public hearing show that a quorum was present, a recording of the meeting was properly kept, and there were no irregularities, contrary to Donahue's unsupported allegations. The commissioners, in a 5:0 vote, unanimously supported the Harvath PD.

Donahue argues that two Planning Commission members left during the public comment period of the meeting, and this voids the commission's decision (Donahue p. 6 & Attachment A). Viewing the YouTube link of the Planning Commission meeting, at minute 1:21, one planning commissioner stands up and is off-screen for 12 seconds. There is no evidence that she left the room, or that she couldn't hear the comments being made during the meeting for the 12 seconds she is off-screen. Like many Planning Commission meetings, it was very long (approximately 2 hours and 40 minutes). Even if a commissioner stepped out for a short bathroom break, it does not make the Commission's vote void or illegal. There is no evidence that the commissioners weren't paying attention to the entirety of a very long Planning Commission meeting.

Donahue also asserts that commissioners, and Chris Earl the City's planner, were biased and had conflicts of interest that favored the Harvaths (Donahue p. 8). The Harvaths did not know Mr. Earl or any of the Planning Commissioners prior to applying for the PD or prior to the meeting. Like any applicants, the Harvaths submitted an application, and at first it was deemed incomplete. With staff input, the Harvaths submitted additional information and documentation that satisfied the application requirements. Complimenting Mr. Earl for being a helpful professional does not constitute bias or a conflict of interest. The Harvaths' complete application was reviewed by staff, and went forward to the Planning Commission. The Harvaths' interactions with staff and Commissioners were professional only. Donahue's assertions of bias or conflict have no factual basis.

**SUBSTANTIAL EVIDENCE SUPPORTS APPROVAL OF THE PD AND PRELIMINARY PLAT, AND DONAHUE HAS NOT MET HIS BURDEN OF PROOF:**

The appellant (Donahue) bears the burden of providing evidence to support his appeal seeking to overturn the decision of the Planning Commission. Utah Code Ann. 10-9a-705. A specific ordinance provides the Planning Commission the power to hear and determine the merit of planned development applications. City Ord. 21A.06.030.C.5.

The Planning Commission listened to the presentations of staff, the applicant's representative, and the public, and reached a reasoned conclusion. It adopted the staff report, and the application details, all of which contained substantial evidence to support the decision. The Planning Commission followed the municipal ordinances, supporting approval of the Planned Development ("PD"), as shown by the specifics in the staff report. The following items constitute substantial evidence in support:

1. In the staff report submitted by city planner, Chris Earl, he stated: "the impact of introducing another single-family dwelling unit to the rear of the property is minimized due to the extended proximity to a home on any adjacent property." (Report p. 3, PC Meeting @ minute 1:02)
2. The new dwelling will meet all front façade, setback, height and zoning requirements. (PC Meeting @ minute 1:02)
3. After reviewing the application, staff concluded, "... the proposed Planned Development is compatible with the existing development in the neighborhood and the goals of the adopted master plans that are applicable to the area." (Report p. 3, PC Meeting @ minute 1:02)
4. Staff and the Planning Commission concluded that the applicant was only seeking relief from the 80-foot lot width requirement in section 21A.24.050.C, as allowed in a PD. (Report pp. 3-4)
5. "The majority of modification will occur to the rear of the property, behind the house on 1852 East, which will help in maintaining the existing visual appeal of single-family homes along the frontage of 2700 South." (Report pp. 3-5, Report attached pictures, PC Meeting @ minute 1:00).
6. The proposed PD implements the goals of the *Sugar House Community Master Plan* by increasing housing opportunities through the utilization of infill development, recognizing that a flag-lot type configuration could be used to facilitate infill. The proposed PD is similar in form and function to a flag lot design. (Report p. 4, PC Meeting @ minute 1:02)
7. The *Sugar House Community Master Plan* further contemplates this type of form for long deep lots. (Report pp. 4-5)
8. All the lots would have ample off-street parking, one goal of planned developments. (Report p. 4-5, PC Meeting @ minute 1:27)
9. Additionally, the new lot was very close to transit stops, public streets and bike lanes, a goal of the *Plan Salt Lake (2015)*. (Report p. 5)
10. The proposed PD would also implement the goals of the plan called: *Growing SLC: A Five Year Housing Plan 2018-2022*. It provided for flexibility around dimensional requirements to promote housing construction, in-fill development, and more housing stock to meet overall housing needs in the city. (Report p. 5)
11. It also promotes the goals of *Plan Salt Lake (2015)* publication which promotes infill and redevelopment of underutilized land, and supports enabling moderate density increases within existing neighborhoods where appropriate. (Report p. 5)
12. The Planning Commission rightly adopted the staff conclusion that the goals of the master plans were being advanced with the addition of one single-family lot which exceeded the minimum lot

size of the R-1/12,000 zone. The PD standards in the ordinance had been met, and the proposal complied with the subdivision standards. (See Attachment E to the staff report, showing that the PD project complies with all zone standards except lot width [the one requested variation to the code requested in the PD]).

13. Also, as set forth in Attachment F to the staff report, staff concluded that the planned development standards in City Ord. 21A.55.050 had been met which allows for the variation to lot width requested in the application.

The Harvaths' written and verbal evidence before the Planning Commission also provided substantial evidence to support the Planning Commission's approval of the PD and preliminary plat. The PD provided for each lot to have ample covered parking, and all lots had attached and/or detached garages. Furthermore, as is important in a PD, all lots shared joint utility and access easements for optimal public and private infrastructure with easements memorialized in writing through a Cross Access, Emergency Access and Utility Easement attached to the application packet (Report p. 17). The PD would not result in any density increase for the zoning district, because all the lots met the minimum lot size for the zone. This fact directly refutes Mr. Donahue's assertion that approval of the PD impermissibly altered the zoning district (Report pp. 17-18).

The Planning Commission listened to many public participants. There was opposition to the PD, mostly from neighbors. However, many of them were mistaken about the facts. One thought that the PD would reduce the lot size in the neighborhood (below the minimum lot size requirement of 12,000 sq. ft.). The Planning Commission understood that the lot size for the zone would not be altered by this PD. One opponent thought that the Harvaths were asking for commercial zoning, which isn't the case. One believed that the zoning from 1997 can never be changed, or that the PD provisions in the code could never be implemented. It is impractical to think that long established zoning is static, and planning commissioners always must "keep abreast of changing conditions as life courses onward and meet the varying needs of a growing city." *Naylor v. Salt Lake City Corp.*, 410 P.2d 764 (Utah 1966). Donahue even argued that Barbara Harvath should not have been permitted to have a two story home next to him, even though her existing two story home is clearly permitted in the zone. Certainly, the public is what makes a public hearing, but many of the opponents were mistaken about the proposal facts, and the applicable law.

On a long agenda, the Planning Commission devoted 36 minutes to this one item, gathering input from staff, the applicant, the public and the commissioners. Considering all the substantial evidence, the commissioners gave meaningful input that supports their decision to approve the PD. Commissioner Scheer pointed out that the community concerns in 1997 are different than they are now where housing needs are paramount (PC Meeting @ minute 1:26). Commissioner Barry said this applicant has provided the off street parking, and the PD utilizes these long deep lots in a way that won't have a negative impact. This is a good project (PC Meeting @ minute 1:27). Commissioner Bell said that adding one house is effective for creating a dwelling where the applicant can age in place (PC Meeting @ minute 1:27). With a motion by Bell and a second by Barry, the motion to approve the Harvath PD and preliminary plat was unanimously approved with a 5:0 vote.

The motion adopted all of the documentation and evidence cited herein, and by the votes shows the commission felt there was substantial evidence for the approval. The substantial evidence standard does not require all the weight of the evidence, just a quantum and quality of evidence "adequate to



convince a reasonable mind to support a conclusion.” *Patterson v. Utah County Bd. Of Adj.*, 893 P.2d 602 (Utah App. 1995) (citing *First Nat’l Bank of Boston v. County Bd. Of Equalization of Salt Lake County*, 799 P.2d 1163, 1165 (Utah 1990)). The Harvaths have met the substantial evidence standard.

**CONCLUSION AND PRAYER:**

For the reasons stated herein, the Harvaths request that the appeal be denied, and that the Hearing Officer affirm the decision of the Planning Commission approving the PD and preliminary plat. The decision of the Planning Commission was supported by substantial evidence. Donahue has not presented any evidence or argument that would provide grounds for overturning the decision. We request that the Appeal Hearing Officer affirm the Record of Decision for Petitions PLNPCM2020-00826 (Planned Development) and PLNSUB2021-00111 (Preliminary Plat).

Respectfully submitted by Victoria Hales, for and on behalf of Barbara and David Harvath, applicants and opponents of the appeal.

*Victoria Hales*

*Bar No. 04587*